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AVERTING ALCOHOL ABUSE: NEW DIRECTIONS IN PREVENTION POLICY

HEARINGS

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

JUNE 15 AND 21, 1989

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CONTENTS

Opening statements:

Page

Senator Glenn 1, 61
Senator Roth 2, 63
Senator Levin 3
Senator Kohl 4, 64
Senator Lieberman 5
Senator Bingaman 7

WITNESSES

Thursday, June 15, 1989

C. Everett Koop, M.D., Surgeon General of the United States, accompanied by Loren Archer, Deputy Director of the National Insitute of Alcohol Abuse and Alcoholism in the Alcohol, Drug Abuse, and Mental Health Administration 9
William Scott, Director, Office of Alcohol and State Programs, National Highway Traffic Safety Administration, accompanied by Dr. James Nichols, Deputy for Scientific and Technical Affairs, National Highway Traffic Safety Administration 24
Edward O. Fritts, president and chief executive officer, National Association of Broadcasters 34
James C. Sanders, president, Beer Institute 37
Douglas W. Metz, executive vice president, Wine and Spirits Wholesalers of America, Inc 40
Dan E. Beauchamp, Ph.D., American Public Health Association 43

Wednesday, June 21, 1989

Lauro F. Cavazos, Secretary, Department of Education, accompanied by Dick Hays, Director of Drug Abuse Policy Oversight 65
William C. MacLeod, Director, Bureau of Consumer Protection, Federal Trade Commission 80
Diane Killory, general counsel, Federal Communications Commission 84
Hal Shoup, executive vice president, American Association of Advertising Agencies, Inc 97
Wallace Snyder, American Advertising Federation 99
Daniel L. Jaffe, senior vice president, Association of National Advertisers, Inc., accompanied by Burt Neuborne, professor of law, New York University 101
Fred A. Meister, president and chief executive officer, Distilled Spirits Council of the United States, Inc 105
Hamilton Beazley, president, National Council on Alcoholism 107
Michael M. Birkley, National Licensed Beverage Association 110
William H. Latham, National Restaurant Association 113

Alphabetical List of Witnesses

Archer, Loren: Testimony 9
Beauchamp, Dan E.:
  Testimony 43
  Prepared statement 174
Beazley, Hamilton:
  Testimony 107
  Prepared statement 328

Page
Birkley, Michael M.:
    Testimony ... 110
    Prepared statement with an attachment ... 352
Cavazos, Lauro F.:
    Testimony ... 65
    Prepared statement ... 185
Fritts, Edward O.:
    Testimony ... 34
    Prepared statement ... 148
Hays, Dick: Testimony ... 65
Jaffe, Daniel L.:
    Testimony ... 101
    Prepared statement with an attachment ... 249
Killory, Diane:
    Testimony ... 84
    Prepared statement ... 212
Koop, C. Everett, M.D.:
    Testimony ... 9
    Prepared statement ... 127
Latham, William H.:
    Testimony ... 113
    Prepared statement ... 401
MacLeod, William C.:
    Testimony ... 80
    Prepared statement ... 196
Meister, Fred A.:
    Testimony ... 105
    Prepared statement ... 302
Metz, Douglas W.:
    Testimony ... 40
    Prepared statement ... 159
Neuborne, Burt:
    Testimony ... 101
    Prepared statement ... 290
Nichols, James: Testimony ... 24
Sanders, James C.:
    Testimony ... 37
    Prepared statement ... 154
Scott, William:
    Testimony ... 24
    Prepared statement ... 137
Shoup, Hal:
    Testimony ... 97
    Prepared statement ... 225
Snyder, Wallace:
    Testimony ... 99
    Prepared statement ... 239

APPENDIX

Prepared statement of witnesses in order of appearance ... 127
"Christiana H.S. Survey Finds 3 out of 5 Drink," by Sandy Dennison, Wilmington News Journal, June 14, 1989 ... 424
Statements and letters from:
    Anheuser-Busch Co., Inc ... 425
    Distilled Spirits Council of the United States, Inc ... 438
    National Transportation Safety Board ... 464
    Wine Institute ... 475
"Surgeon General's Workshop on Drunk Driving," proceedings, December 14-16, 1988 ... 481

AVERTING ALCOHOL ABUSE: NEW DIRECTIONS IN PREVENTION POLICY

THURSDAY, JUNE 15, 1989

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:35 a.m., in room SD-342, Dirksen Senate Office Building, Hon. John Glenn, Chairman of the Committee, presiding.

Present: Senators Glenn, Levin, Bingaman, Lieberman, Kohl, and Roth.

OPENING STATEMENT OF CHAIRMAN GLENN

Chairman GLENN. Good morning and welcome to the first of several hearings that the Governmental Affairs Committee will be holding on the recommendations made to the Surgeon General at his Drunk Driving Workshop last December.[1] We had hearings last year on this and other problems. We will have a whole series of hearings on this topic since it is so much of a national problem.

I fully support the comprehensive approach taken by the Surgeon General to combat drunk and drugged driving. Drunk driving cannot be seen as a problem in isolation, but as a symptom of alcohol abuse. I am convening these hearings to carefully examine the Surgeon General's recommendations and find out why other Executive Branch agencies with authority to regulate alcohol beverage product activities have not been more aggressive on this issue.

Alcohol is part of our culture. Colonial life in America according to one chronicler of the day was, "verily soaked in alcohol." But public inebriation was unusual due to the high degree of social control exercised over the behavior of community members. The use of alcohol in this country was greatly influenced by the Industrial Revolution and the proliferation of taverns and saloons in the 19th century and in the disaggregation of the nuclear family in the 20th century.

While the manufacture and consumption of beverage alcohol has a long history in American culture, so too do the social and medical consequences of alcohol abuse. Americans need to be made aware of the dangers of alcohol use and abuse. While there is much activity at all levels of Government focused on the illicit drug trade, we often forget that the use of alcohol, a *legal* drug, is exacting a heavy toll on our society. Alcohol costs this country more money and kills more people than all the illegal drugs combined.

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[1] See p. 481.

The use of the drug alcohol is responsible for well over 100,000 deaths annually. Those are estimates. They run between 100 and 200,000, so we use the lower figure. It costs our society, according to the Surgeon General's figures, somewhere around $130 billion each year, far more than crack, heroin, cocaine and marijuana combined. Alcohol is a factor in nearly 50 percent of all murders, accidental deaths and suicides in this country.

An estimated 2 million drivers are arrested each year in the United States for driving under the influence of alcohol. Almost 24,000 people, an average of one every 22 minutes lost their lives in alcohol-related traffic crashes. That was just last year. It goes up and down a little bit, but almost 24,000 deaths last year. To put that in the proper perspective, we think that the Vietnam War was a terrible thing, and public opinion was a major factor in stopping the Vietnam War, yet, every 2½ years we kill in alcohol related deaths on the highways the same number of people that were killed in all the 10 years of the Vietnam War. On an average Friday evening according to one of the statistics I saw, about 20 percent of the people coming toward you in that 2½ ton car have had alcohol in some quantity or other.

Do you want your wife, your daughter, your son, or even yourself facing that kind of uncertain carnage coming down the highway toward you every evening or on Friday evenings at least. Another figure, about 50 percent of the admissions into the VA hospitals are alcohol related. So it is a major problem. An additional 534,000 people suffer injuries in alcohol involved accidents on the highways.

A number of steps can be taken to reduce both the incidence of alcohol-related crashes and heighten public awareness over the dangers of alcohol abuse. The Surgeon General's workshop has provided a plan for action. We will need to carefully examine this plan, however. Its implementations would require citizens, the alcohol beverage industry, and elected officials at all levels of Government to work together.

We are honored to have the participation of Dr. C. Everett Koop, the Surgeon General of the United States, at this hearing. Dr. Koop has been a leading advocate of public health measures to stem the spread of AIDS, to reduce tobacco consumption in this country, and now to curtail this horrible carnage on the highways by drunk drivers. Dr. Koop, I am indeed grateful that you could find time in your busy schedule to come before the Committee to discuss the Drunk Driving Workshop report and its recommendations with us today.

We will be carefully listening to your remarks and the remarks of the witnesses to follow to see what steps Congress can take to implement some of the recommendations made to you by the Drunk Driving Workshop. So I welcome you to this hearing and look forward to a lively day of testimony here.

Senator Roth, any comments you wish to make?

OPENING STATEMENT OF SENATOR ROTH

Senator Roth. Thank you, Mr. Chairman. I commend you for bringing this critically important issue before the Governmental

Affairs Committee, and Dr. Koop, I guess this is probably one of your last appearances. I would like to commend and congratulate you for your superb public service. We are all much richer for it.

Mr. Chairman, as I stated during our hearings last September, the abuse and misuse of alcohol has, indeed, taken a heavy toll. And I think one can never be more conscious of that fact as when one sees the grim pictures of twisted wreckages in newspapers and nightly news stories. So often these fatalities are young people in the prime of life.

I can say that on a number of occasions in my State of Delaware, we have had instances of young people whose life has been snuffed out or ruined because of drunken driving. So this is indeed a matter that has to be of great concern. Like those wreckages the problem of drunk driving is not only deadly but extremely difficult to dismantle and clear away. Some believe stricter law enforcement and penalties for the drunk partner will head off a growing number of alcohol related vehicular accidents. Others are advocates for curtailing media messages. They associate alcohol with happiness, wealth and a beautiful date for Saturday night.

Others who believe that the only way to end the loss of our life on our Nation's highways is to educate the current and future generations about responsible drinking habits. In my own State of Delaware over 80 people were killed last year because of drinking and driving. That is about 51 percent of the auto fatalities, a number which I think is quite close to the national average. Sixteen percent of the victims were between the ages of 15 and 24. Just yesterday headlines in one of the Delaware local papers proclaimed that three out of five students of a local high school drink alcohol.

I asked the Chairman to submit this article in the record as I feel its timeliness reflects the problems we are addressing today.[1] A new campaign has begun in Delaware to erect small signs as memorials on the spot of drunk driving accidents with a simple number that indicate the driver as one of the many needless victims. In a quiet way these signs remind all that life is brief, and drunk driving serves to make it all the more brief.

But signs along the roadways are only a reactive measure to the problem of 24,000 people dying annually. Signs along the road let us remember, but they cannot stop another 40,000 from being seriously injured in alcohol related crashes. An estimated two out of five Americans will be involved in a vehicular accident in which alcohol plays a major role. So I congratulate you, Dr. Koop, for your leadership, and the many groups that are represented here today.

Chairman **Glenn**. Thank you. Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator **Levin**. Mr. Chairman, there is no more critical issue that faces our society than the one that is under discussion here today. I congratulate you for your effort and your leadership in this area for scheduling these hearings. I join you in welcoming Dr.

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[1] See p. 424.

Koop and in congratulating Dr. Koop, who has had a distinguished, an extraordinarily distinguished career as Surgeon General, on the eve of his departure from his present position. We wish him all the best. He has been a very creative leader in this and so many other areas, and we are all very much in his debt for that leadership. And I would ask that a written statement be made part of the record.

Chairman GLENN. Without objection, it will be included in the record. Thank you.

[Statement of Senator Levin follows:]

STATEMENT OF SENATOR LEVIN

Mr. Chairman, I commend you on conducting this series of hearings on alcoholism. It is a major drug abuse problem, and it is important that the Federal Government not only do everything it can to detect and prevent it, but that we also be sure that our efforts are conducted in a coordinated and effective manner.

Based on the testimony we have received for today's hearing, I am impressed with the number and variety of programs being implemented at the state and local level to educate our young people on the deleterious effects of alcohol and to develop and enforce strict laws regarding drunk driving. Obviously we still need to do more.

In addition, it seems to me we have the opportunity to coordinate our anti-drug efforts with our anti-alcoholism efforts. Some of the programs designed to deter drunk driving could also be used to deter illegal drug use. For example, I think the immediate revocation of a driver's license from a driver who is tested and found to be over the legal limit for alcohol is an excellent approach. The consequence to drunk driving in that context is immediate both for the driver and for the community and, therefore, has a powerful effect. In the appropriate situations, a similar program could apply to persons who are tested positive for illegal drugs. They could, likewise, be subject to an immediate revocation of their drivers' licenses. I think such a sanction could be very effective in discouraging drug use.

I hope we can coordinate our alcohol and drug programs in order to maximize our use of federal dollars. I see this hearing as an opportunity to identify some common solutions and thank you again, Mr. Chairman, for taking a leadership role on this subject.

Chairman GLENN. Senator Kohl.

OPENING STATEMENT OF SENATOR KOHL

Senator KOHL. Thank you, Chairman Glenn. I too am very pleased that Senator Glenn has scheduled these hearings on the problems associated with alcohol abuse in our society and the public policy choices available to address these problems. Alcoholism and drunk driving have devastated the lives of millions of Americans. They merit the prompt attention of Congress and the Administration. I congratulate the Surgeon General for his efforts to focus the public spotlight on these issues.

We all know that this problem is particularly acute for our Nation's young people. Thousands of promising futures are thrown away each year because of drunk driving accidents involving minors. And thousands of bright young minds are wasted each year because of alcohol abuse. We cannot afford this tragic loss. We must make every effort to educate our young people, and we have to be educated ourselves. We have to learn to recognize the signs of alcohol addiction in teenagers so that we can help with treatment and with support.

In addition to educational programs, the Federal Government must do everything in its power to encourage states to enhance law enforcement activities in order to apprehend and penalize more drunk drivers. While most States already have tough laws on the books, enforcement activities are often underfunded and understaffed. Police forces in urban areas which are struggling to cope with violent crime and drugs can barely afford to spend precious resources on sobriety checkpoints and increased apprehension efforts.

People must be made to believe that they will be caught and swiftly punished if they drink and drive. Having said all of this, let me also say that I have some particular sensitivities about this issue because my State of Wisconsin is home to a good many breweries. I am proud of that fact. They are good employers and good corporate citizens and we are delighted to have them with us.

When I think they are wrong, I am willing to vote against them as I did last month when I supported an increase to the tax on beer to fund the war on drugs. But when I do not think they are wrong, I am going to protect their interests, and in this case I want to make it clear that I do not think it is wrong to produce beer or to drink it. The problem here is not the availability of beer and wine or liquor. The problem comes when people abuse beer or wine or liquor. Now we can try to solve that problem by preventing people from drinking but it will not work. And it should not be tried because the problem is not people who have a drink. The problem is people who have too much to drink.

Our efforts ought not focus on the impossible and undesirable goal of eliminating consumption. Instead in my judgment we have to focus on preventing abuse, and the evidence indicates that when we do that we do get results. Clearly we must continue to improve on our educational efforts which have been proven successful at reducing drunk driving. According to the Advanced Insurance Institute for Highway Safety, the percentage of traffic fatalities involving drunk driving dropped from 50 percent in 1982 to 40 percent in 1987. That isn't a lot, but it is still a significant drop in 5 years, and a great deal of that decline can be directly attributed to the educational activities undertaken by the Government, interest groups and industry itself.

And part of the decline can be attributed to stronger law enforcement activities and the fear of getting caught, but we must do more. We can do more to prevent people from killing themselves and the innocent victims of drunk driving accidents. I look forward to hearing the testimony of the witnesses this morning and hope that meaningful and constructive solutions will move forward in Congress in the near future. Thank you, Mr. Chairman.

Chairman GLENN. Thank you. Senator Lieberman.

OPENING STATEMENT OF SENATOR LIEBERMAN

Senator LIEBERMAN. Thank you, Mr. Chairman. I have a statement, but I must say that the statements that have been made by yourself and the others have been so much on target that I would like to simply enter it in the record and add, just add, a point or two briefly. First, about the change in public opinion that I believe has occurred on this subject in the last decade. I recall, Mr. Chairman, if I may be personal, that when I was running for Attorney General in the State of Connecticut in 1982, I began to talk about the need for tougher penalties for drunk driving. Some of my advisors cautioned me that I was making a mistake, that everybody likes to take a drink occasionally and drive, and it was the wrong thing to do in the midst of a political campaign.

I continued regardless. But the point I want to make is that over time, and it occurred in the 2 or 3 years after 1982, I think the public began to see itself not so much as a potential arrestee for drunken driving, but as a victim of a drunk driver. And critical to that change of attitude, in my opinion, was the work done by the various advocacy groups in this area, such as the Mothers Against Drunk Driving, the Students Against Drunk Driving, and Remove Intoxicated Drivers. Often these groups were led by people who had had loved ones injured seriously or killed in drunk driving accidents.

The result of that effort and the change in public opinion that it caused has been a remarkable flow of tough legislation at the State level to deal with drunk driving. It seems to me that the time has come for the Federal Government to pick up that torch and to carry it forward at the national level, under your leadership, Mr. Chairman, and the leadership of Dr. Koop. It is not going to be easy because we are dealing with something very fundamental—a human imperfection, which is the inability of our species to discipline itself.

While laws can have something to do with that, an awful lot more has to come from other places in our society, such as the family or religion or wherever else people get the values that lead to self-discipline. But there is clearly a role for the law, both in establishing and enforcing tough penalties, in providing funding for education to give people the knowledge that will lead to self-discipline, and in providing funding for treatment that can cure those who are essentially ill.

So I very much applaud your leadership, Mr. Chairman, in bringing this topic right to the top of our agenda, and I look forward to working with you on it in the months ahead.

Chairman GLENN. Thank you very much.

[The statement of Senator Lieberman follows:]

STATEMENT OF SENATOR LIEBERMAN

Chairman Glenn, thank you for giving us the opportunity to examine this important issue. The problem of drinking and driving has reached critical proportions. This is an issue on which we are literally dying for leadership. Thanks to your efforts, as well as those of Surgeon General Koop, we are finally beginning to see that leadership.

Each year, 24,000 Americans will die in alcohol-related automobile accidents. At least a half-million injuries will result from these accidents as well, at a combined cost of over $10 billion. And, the group most likely to suffer harm from drinking and driving is our most precious resource, our children.

Drinking and driving remains the number one killer of teenagers. More than 40 percent of all deaths of our children aged 15 to 20 years result from motor vehicle crashes. As the father of two young drivers, I am troubled by these figures. While there has been a great increase in awareness of this problem over the past few years, it is time for a concerted national effort to rid our society of the destruction caused by drinking and driving.

I first joined the anti-drunk driving crusade in 1982. As Connecticut's Attorney General, I advocated new laws to protect our citizens from the menace of drinking and driving, including mandatory jail sentences and license suspensions for drunk drivers. I believe these measures helped make the streets of Connecticut safer, but there is still much work to be done. The Surgeon General has made a good start with his report; now, it is up to Congress to consider his recommendations seriously and heed his call for legislative action.

We must examine the effect of alcohol advertisements and other societal pressures on our children to drink at an early age. We should also explore incentives to limit the consumption of those who do drink. We must enforce more strictly the laws which we already have; and, most importantly, we must continue to expand the education programs which have been undertaken.

I recognize that many Americans have a serious problem with alcohol. In many instances, they are unable to help themselves. While this does not serve as an excuse for their actions, we must recognize that they need our help to overcome their problem. Punishment does not equal treatment, and sufficient treatment must be available to assist those who desire it. These individuals can be brought back into our productive society, which helps us in our effort to put the problem of drinking and driving behind us.

Mr. Chairman, thank you for this opportunity to express my views on this critical issue. I also would like to commend citizen groups such as Mothers Against Drunk Driving, Students Against Drunk Driving and Remove Intoxicated Drivers for keeping this issue on the public agenda, and for helping our society revise the way we think about drinking and driving. Drinking and driving remains a serious public health concern, and it is imperative that we begin to act now. I wish to thank the Surgeon General, as well as the other witnesses, for appearing here this morning, and I look forward to their testimony.

Chairman GLENN. Senator Bingaman.

OPENING STATEMENT OF SENATOR BINGAMAN

Senator BINGAMAN. Thank you, Mr. Chairman. I also ask that my statement be included in the record.

Chairman GLENN. Without objection so ordered.

Senator BINGAMAN. Let me just say that I welcome Dr. Koop's presence here. Dr. Koop's record of public service clearly makes him the most effective Surgeon General we have had in our history, and as one citizen, I am very sorry that he has decided not to continue in that position.

But, I do think the problem you have scheduled this hearing on is a very serious one, and I hope that we can come up with some solutions that begin to address it. The problem is particularly severe in my home State of New Mexico. In fact, the statistics that I have seen indicate that New Mexico has the highest number of alcohol-related deaths per capita in the Nation. That is an unfortunate distinction for us to have, but one that we have to face. I also want to cite one statistic that I think is important. The information I have is that the Federal Government today targets less than $30 million per year on alcoholism prevention activities. The industry, the alcohol beverage industry, spends about $1.3 billion compared to that $30 million.

They spend about $1.3 billion promoting consumption of alcohol each year. And I think that is a sign of the size, the magnitude of the difficulty that we have to deal with. I hope very much that this hearing will help us produce some solutions. Thank you.

Chairman GLENN. Thank you very much.

[The statement of Senator Bingaman follows:]

PREPARED STATEMENT OF SENATOR BINGAMAN

I commend our distinguished Chairman, Senator Glenn, for his leadership in organizing this important series of hearings on alcohol abuse. Alcoholism is a disease of epidemic proportions in this country, and like all diseases, its control—and possible elimination—can be achieved only through a serious commitment to prevention and treatment. I am pleased that this Committee has joined the effort to help control this deadly disease.

I also would like to join the Chairman in extending a warm welcome to our Surgeon General, Dr. C. Everett Koop. Dr. Koop, you have served your country well over the past eight years. Indeed, through your ability to educate the public, you have become the most effective Surgeon General in our history. The people of this country and the world owe you a tremendous debt of gratitude.

The benefits of your work to enrich the lives of our children, create a clean, smoke-free environment, and deal with the individual and societal problems of AIDS and other diseases will flow world-wide long after you and I are gone, and that fact alone indicates the immeasurable nature of the gift you have given the American people.

I am pleased that you are here today, Mr. Surgeon General, and that you are lending your wisdom, courage, and perseverance to the nation's efforts to control drunk driving. Much can be learned from the report of your Workshop on Drunk Driving, and I sincerely hope that it will become a true working document. It must become a source of positive action if we are to take any significant steps toward controlling—and perhaps eliminating—alcohol abuse.

Fundamental to the Surgeon General's report, and, I believe, to our discussion today and our actions in the future, is the realization that a solution to the problem of alcohol abuse can be achieved only by embracing the issue from both a safety *and* health perspective. I look forward to Dr. Koop's discussion of the need to merge public safety concerns and solutions with individual health concerns and strategies.

Dr. Koop's report is particularly important to my home state of New Mexico because of the degree to which alcoholism has impacted its citizens. Studies and statistics, many of which may be discussed today, confirm that the need to confront the problems of alcohol abuse is long overdue. The need is critical among all people, but I believe it may be most critical among our Native American population. The incidence of alcohol and drug abuse among Indian people is tragically high, perhaps higher than that of any other population in the U.S.

Many critical health problems afflict our Indian population, but always the number one problem remains the same: Alcoholism and alcohol-related diseases, injuries and death. It is, as recognized by this Congress, "the most severe health and social problem facing Indian tribes and people today."

Perhaps the tragic scope of this problem was best explained by Gilbert Pena, past Chairman of the All Indian Pueblo Council in New Mexico. During Senate testimony on Indian health three years ago, he said:

"The most obvious and vicious threat to the lives and well-being of our Pueblo people is the damage brought on by alcoholism-related destruction. Alcohol is a contributing factor in most of the motor vehicle accidents in our communities. Many of the costly hospital admissions are in some way connected with alcohol abuse.

"However, in terms of the substantial cost of primary care and the strain on this nation's budget, economic cost is really nothing compared to the social cost to the Tribe. An extremely important part of the Indian culture and tradition lies in the sharing of experience and wisdom between the elders and the young people. Given the tragic rates of accidents and death among the younger age groups, it is easy to see how the social order is severely impacted. Many promising young Indian leaders are now a part of the statistics."

Drunk driving and alcoholism clearly are not problems suffered by individuals; they are problems suffered by families, communities, states, and nations. And only through the type of united effort that the Surgeon General's report envisions will we be able to make lasting changes.

What can we do? I think Dr. Koop would agree with me when I say that the key to curbing alcohol abuse is prevention and that the strategies we use to change attitudes and behaviors must be effective and comprehensive if we are to reduce the social and economic costs of alcohol abuse.

At the federal level, I believe that much more attention—and more research dollars—must be devoted to the prevention of alcohol abuse and addiction. I do not necessarily mean a huge, one or two year appropriation to a few big research institutions or treatment facilities. I mean a steady, long term commitment to funding a broad spectrum of education and prevention programs. I do not think a lot of money is needed, but a solid, long-term commitment is.

Currently, the federal government targets less than $30 million per year on its alcohol prevention activities. The alcohol beverage industry spends more than $1.3 billion annually to promote beer, wine, and liquor consumption. Clearly, something is wrong here and must be changed.

This hearing is evidence, I believe, that we can rectify these critical shortcomings. Without a doubt, we can no longer ignore a problem as great as the alcohol epidemic; instead, we must be willing to commit ourselves to a united effort to achieve its control and eventual elimination. We have the tools needed to win—the Surgeon General's education and treatment strategies—we must only begin. I challenge every member of this body to join the Surgeon General in his fight. Thank you.

Chairman GLENN. Dr. Koop, we welcome you this morning. We look forward to either an abridged version of your testimony or the whole thing, whichever you choose. In either event, your entire testimony will be included in the record. I know you have some time constraints this morning, and when we get to questions, we will make the questioning 5 minutes per Senator to make better use of everyone here this morning. We welcome you this morning, and look forward to your testimony.

TESTIMONY OF C. EVERETT KOOP, M.D., SURGEON GENERAL OF THE UNITED STATES,[1] ACCOMPANIED BY LOREN ARCHER, DEPUTY DIRECTOR OF THE NATIONAL INSTITUTE OF ALCOHOL ABUSE AND ALCOHOLISM IN THE ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Dr. KOOP. Thank you, Mr. Chairman.

Chairman GLENN. Thank you, sir.

Dr. KOOP. Mr. Chairman and Committee members, I want to thank you for inviting me to testify on the recommendations from the Surgeon General's Workshop on Drunk Driving. I would like to make it clear that I am not here representing the views of this Administration; rather the views that I am representing are my own personal views. I am accompanied today by Mr. Loren Archer, Deputy Director of the National Institute on Alcohol Abuse and Alcoholism in the Alcohol, Drug Abuse and Mental Health Administration.

Mr. Archer is here at my request to answer scientific and technical questions relating to his Institute's programs. This will be, as several of you have mentioned, the last time that I testify before the U.S. Congress as Surgeon General. I want to commence by commending the Committee for its efforts to increase public awareness and to improve public policies relating to alcohol abuse and alcoholism.

And I applaud you, Mr. Chairman, for supporting Title VIII of Public Law 100-690 requiring warning labels on alcohol beverage containers. Last year I received resolutions passed unanimously by the House of Representatives and by the Senate urging me to address the problem of alcohol impaired driving. In response to these congressional requests and increased public concern about alcohol impaired driving, I conducted a Surgeon General's Workshop on Drunk Driving in December of 1988.

On May 31 I released the Workshop Proceedings which contained the final workshop recommendations as well as implementation of strategies. Since it was the Congress that asked me to focus national attention on alcohol impaired driving, I have sent the Proceedings to every member. I hope that the Congress can provide leadership and resources to help these groups implement the workshop recommendations. The groups I have in mind are Federal agencies, State legislatures, State and local Governments, education, professional and advocacy organizations, and of course, the private sector.

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[1] See p. 127 for Dr. Koop's prepared statement.

Working together the Congress and these groups can implement the 10 key summary recommendations that I endorsed. To effectively reduce alcohol impaired driving and its life threatening consequences, I think you must pass legislation that aims at the following: require States to reduce the legal blood alcohol concentration or BAC from its present level of 0.10 percent to 0.08 percent immediately and to 0.04 percent by the year 2000.

Two, to require States to immediately establish a legal level of zero percent for drivers under 21 years of age. Three, to increase the Federal excise tax or user fee on alcoholic beverages and to equalize taxes by alcohol content for beer, wine, and distilled spirits. Four, earmark the revenues generated from the Federal excise tax increase to fund impaired driving prevention programs. Five, provide incentives for States to make chemical testing for BA mandatory for all drivers, passengers and pedestrians injured or killed in a crash involving a motorized vehicle.

Six, extend the warning label law to include warning labels on alcoholic beverage advertisements by November 1989. Seven, authorize and fund Federal agencies to purchase advertising time for pro-health and pro-safety messages if substantially increased public service time and space do not become available.

Eight, eliminate tax deductions for alcohol advertising and promotions that focus on lifestyle rather than price and product. Nine, continue to encourage States to pass a law to confiscate drivers' licenses on the spot for those found to be above the legal BAC. And finally, authorize and fund Federal agencies to expand and evaluate their alcohol impaired driving programs as well as their research activities.

As the Committee well knows, Mr. Chairman, every year nearly 24,000 people lose their lives and an additional 534,000 are injured in alcohol related traffic crashes. Many of the dead and injured are young. The combination of drinking and driving is the number one killer of teenagers in this country. Despite these alarming statistics, few Government officials have spoken out on alcohol impaired driving since Richard Schweiker testified before the Presidential Commission on Drunk Driving back in 1982. As then Secretary of the Department of Health and Human Services, Mr. Schweiker said the following: "In the 1950's it was considered a national emergency when 200 young Americans a year aged 15 to 19 died from polio. At the height of the polio epidemic in 1952, 3,000 Americans in all succumbed to that disease, and we rushed to develop a vaccine."

Still quoting Mr. Schweiker, "The public health problem we are faced with today produces more than triple the number of those polio deaths for 16 to 25 year olds alone."

Now one of Mr. Schweiker's successors, Dr. Otis Bowen, made alcohol abuse and alcoholism a major initiative during his tenure at DHHS and spoke at the workshop I have referred to. I am sorry that the Bureau of Alcohol, Tobacco and Firearms and the Department of the Treasury is not testifying today because the Secretary of the Treasury is required to consult and coordinate the health awareness efforts of the alcohol warning labels with the Surgeon General.

In your invitational letter, Mr. Chairman, you asked me to identify obstacles to the implementation of the workshop recommendations. One of the barriers is this reluctance by some public officials to take a firm stand against alcohol impaired driving. I am not certain about the reasons for this silence. Certainly, speaking against alcohol impaired driving should not label one as a prohibitionist, and I would hope that this silence is not from fear of offending the alcohol industry.

An estimated 18 million adult Americans have medical, social and personal problems directly related to the use of alcohol, as do several million adolescents for whom alcohol is an illegal drug. Millions of other adults and youths are affected by the alcohol problems of family members or friends or work associates. By 1990, alcohol abuse and alcoholism are expected to cost the American society $136 billion a year including between $10 to $15 billion for alcohol related crashes. These figures, of course, do not include the cost of grief and human suffering.

How many deficits of this kind can the country afford? The workshop recommendations are not meant to punish the alcohol impaired driver or to bankrupt the alcoholic beverage industry. They are designed to separate the act of drinking from the act of driving. They are intended to help this Nation avoid tragedies like the May 14, 1988 bus collision and fire near Carrollton, Kentucky, which killed 27 people.

The National Transportation Safety Board recently released its report on the Kentucky crash. The report lists 11 workshop recommendations that pertain to the issues in the crash and quotes the Expert Panel on Treatment's call for a prevention focus. Now a prevention focus will address the growing demands of many of your constituents for tougher measures to reduce the use of alcohol and other drugs in our society.

These tougher measures must include an increase in Federal and State taxes on alcoholic beverages and voluntary, and I stress voluntary, changes in alcohol advertising and marketing practices. Why raise excise taxes? Well, the evidence strongly shows that an increase in product price brought about by an increase in excise taxes prevents or delays underage youth from drinking and also reduces the amount that heavier drinkers consume.

Why do we want alcohol advertising and marketing practices changed? Current alcoholic beverage advertising is increasingly targeted at young people and at minorities, and often depicts alcohol consumption as a normal and glamorous activity without negative consequences. Drinking is frequently shown in association with high risk activities and linked to athletic, social and sexual success.

On June 8 and 9, the Entertainment Tonight television show ran a story on celebrity alcohol advertisements and conducted a telephone poll asking viewers if they thought it was okay for celebrities to appear in alcohol advertisements. While 8,400 viewers said yes, over 28,000 said no. Now this is not, Mr. Chairman, a scientific study, but it does indicate that almost 70 percent of the viewers of that program who were willing to pay 50 cents per call to express their opinion think that it is wrong for stars to pitch beer and wine on television.

Is there compelling scientific evidence that advertising influences alcohol consumption, and the nature and level of alcohol related problems? No, there is not, and there may never be because of methodological difficulties in designing appropriate research studies. What we do have are observation, common sense and logic, and they have served us well with smoking since 1964 when members of this Congress, the public health and medical communities and citizen groups embarked upon a systematic program to end America's high risk romance with tobacco.

It appears to me that we are now with alcohol impaired driving where we were 25 years ago with smoking. That is bad news if the alcohol beverage industry follows in the tobacco industry's footsteps of denial and obfuscation. It is good news if it represents the beginning of a new broad dedicated effort to prevent a major public health and safety problem, namely alcohol impaired driving.

A National Coalition to Prevent Impaired Driving is being established as a result of the workshop. My hope is that this national coalition will help every State organize its own statewide coalition that will, in turn, empower local coalitions. Already New Mexico and Michigan have developed statewide coalitions since the workshop to create positive social change.

With alcohol impaired driving as with smoking the issues are many and complicated and even small steps toward alleviating the problem trigger strong emotions and vehement controversy. The National Association of Broadcasters, the American Association of Advertising Agencies, and the Association of National Advertisers were offered a chance to participate in the workshop but declined. Yet they have all been very vocal critics of the workshop and its recommendations.

The National Beer Wholesalers Association filed a lawsuit to have the workshop postponed or cancelled. Under the settlement agreement, I accepted comments on the workshop until January 31, 1989. These comments both pro and con were reviewed and considered by my staff. Before I leave office, Mr. Chairman, I will be recommending to the Assistant Secretary for Health that further research be continued and scientifically based responses be published for the many unresolved issues raised by the workshop and reflected in the comments.

This report will be an invaluable tool for States and local communities to use in developing programs and policies on alcohol impaired driving. Alcohol impaired driving must be seen as a public health and safety problem rather than as an economic and moral problem, and our primary concern must be with preserving human lives.

This will take cooperation among public health, medical, law enforcement and traffic safety experts and a change in individual and community attitudes about alcohol impaired driving. It will also take courage and political clout. I conducted the workshop at the request of the Congress. I hope that the Congress will now provide strong leadership to help the Nation implement the workshop recommendations and adopt as a national standard the total unacceptability of driving after using alcohol or other drugs.

The very enormity, Mr. Chairman, of our losses demands no less of a response. Thank you.

Chairman GLENN. Thank you very much, Dr. Koop. We will be 5 minutes each on the round on this one. You have recommended the blood alcohol level be lowered immediately from .1 to .08 percent for drivers 21 years and older and zero, of course, for drivers under 21. What was the basis for the .08? Do we have statistical evidence that led us to hit that .08? Why not .06 or lower?

Dr. KOOP. Well, I will ask Mr. Archer to answer that, sir, because it is technical and he has the answers.

Chairman GLENN. Fine.

Mr. ARCHER. Mr. Chairman, the decision on the blood alcohol level is basically a political, not a scientific decision. The evidence is that there is an increasing risk of an impairment from .04 on upward so it is a question of .08 has a lesser amount of impairment than .10, but of course, .06 would have even less.

Chairman GLENN. What does that equate to in drinks, say, for a 165 or 170 pound person, or can you equate that to us? Would .08 be two martinis, one beer, what would it be? Do you have any——

Dr. KOOP. We can both take a crack at that, sir. It is the first question that is always asked and the most difficult to answer. It depends a little bit on the bodily habitus of that 165 pound man. Is it all muscle or is it fat? It depends on what he had to eat just beforehand, how rapidly he consumed it, what his activity was just before and just after so that you cannot really answer it.

You can say that some people are impaired by one drink, and you can say that other people can drink several drinks and still have an alcohol level that comes under the legal limit.

Chairman GLENN. Is there a big difference in tolerance from one person to another on what one or two beers or a martini will do to a person of about the same weight, a different alcohol tolerance?

Mr. ARCHER. There can be differing alcohol tolerances, but the most important factor is body weight, and there also, of course, are differences by sex in that women because of lower total body water can be impaired with slightly less alcohol, which makes it difficult to give you a simple answer of 160 pound person because women are more impaired with the same amount of alcohol.

Chairman GLENN. Are there enough differences there that we should have different standards for men and women?

Mr. ARCHER. There are significant differences. I think it would be difficult to administer.

Chairman GLENN. I know it would be. I am very aware, very aware of that.

Mr. ARCHER. From a scientific standpoint, yes, there is evidence to support it.

Chairman GLENN. But I just wondered if statistically and just from a clinical standpoint, are there major differences between men and women sufficient that, say, you could say for women it should be .06 or higher or lower or whatever the case would be?

Mr. ARCHER. No. Because the blood alcohol level would be the same. What we are talking of is differences that relate to produce a blood alcohol level in men and women.

Chairman GLENN. I know, but what I am trying to relate to is what prevents impairment? If women are more easily impaired by a certain amount of alcohol, then perhaps a lower blood level should be required, or is the same blood level that impairs both?

Mr. **Archer**. The same blood level impairs both, Mr. Chairman.

Chairman **Glenn**. Oh, okay.

Mr. **Archer**. However, the standard——

Chairman **Glenn**. It is just that it would take women less drinking to get to that blood impaired level?

Dr. **Koop**. That is correct.

Mr. **Archer**. A standard drink, whether it be a drink of distilled spirits, beer or wine would produce a different blood alcohol level in women than in men.

Chairman **Glenn**. Doctor, if the Congress were to—let us just say we take three steps, how would you prioritize them? What should we do this year? Were your 10 steps—were they prioritized or if we would take, be limited to, say, three or four steps, what would those be?

Dr. **Koop**. Well, I think the immediate reduction of the blood alcohol from its present 0.1 to——

Chairman **Glenn**. That was number 1. Are these in priority?

Dr. **Koop**. Well, in general in priority. But they are not specifically. I think that should be number 1 though, and coupled with it I would put number 2 to be certain that as far as those under 21 years of age that that level be zero.

Chairman **Glenn**. Yes. Well, now the legal drinking age now is 21, and so it would follow that if you have a driver that is under 21 and has any alcohol, I would presume that would be illegal from that standpoint, from just a general standpoint but not specifically for driving; is that correct?

Dr. **Koop**. That is correct.

Chairman **Glenn**. How many States have specific laws, then, that apply just to driving for drinkers under 21?

Mr. **Archer**. We could provide that if you would like.

Chairman **Glenn**. Okay. That would be fine. I would appreciate if you would.

On page 78 of the Proceedings, the workshop recommends that the Government promote a "Don't Drink and Drive" message, and that other messages imply that some drinking with driving is acceptable such as "Know Your Limit" campaigns, and that those campaigns should be discouraged. The alcoholic beverage industry and the advertising industry have each sponsored a number of advertisements to discourage drunk driving.

Do you believe those efforts are helpful, or do they send a very mixed message to the viewer that sort of cancels out the other more strict message?

Dr. **Koop**. Well, I think they are certainly helpful, Mr. Chairman, but they are not as helpful as they could be. Remember that our target group here are the people we are most concerned about, those 15 to 18 years of age, our young people, and I spent most of my professional life working with adolescents, and I am sure you know, they have a sense of immortality. They like to take risks. They think any admonition that begins with the word "don't" is for somebody else and with those three characteristics of young people, I think we should take the firm stand that you do not drink and drive.

Chairman **Glenn**. Thank you. My time is up. Senator Roth.

Senator **Roth**. Thank you, Mr. Chairman. As a number have indicated, it seems to me the primary problem is to change public attitude. My concern has been that in the 1960's and 1970's we developed a very permissive style of life and suddenly we find that it is having very harmful impact on society, whether you are talking about drugs or AIDS or abuse of alcohol.

The one thing that gives me a little hope is the point you made in your opening statement is that we have made some progress with respect to smoking. And it seems to me in some ways we have the same problem here. I wonder has any effort been made to study what has brought about what I consider a very significant change with respect to smoking. It has taken many years. But are there some lessons from that for us to learn in the case of drunken driving?

Dr. **Koop**. I think there are, Senator. There is no doubt about the fact that you are on target when you talk about attitudes. It would be very hard to measure what has happened in those 25 years that this Government has tried very sincerely to alter the smoking habits of Americans.

So many things have been done simultaneously by so many Federal and State authorities as well as the private sector that it is hard to pick out whether it is a warning label or an educational campaign. But I think that if you look at what we can measure from 1984 on, attitudinal changes about smoking which essentially come down to the fact that smoking is becoming socially unacceptable. That is attitudinal. And if we could get an attitudinal change that drinking and driving do not mix, then I think we would have achieved the same thing, and I would hope in less than the 25 years it took for smoking.

Senator **Roth**. Again, I agree with you the difficulty of making the study. But I wonder if it would not be worthwhile trying to establish to the extent we can scientifically what did we do in the past few years or 25 years as you state that has made a difference because it seems to me it is exactly the same thing we have to do here.

Let me ask you this question. Now as I understand it, there is no hard liquor advertising on TV today; is that not correct?

Dr. **Koop**. Correct.

Senator **Roth**. But we do have, of course, advertising of beer. Have any efforts been made or is there any difference, can we see where that has made a difference between alcohol and beer with respect to drunk driving? Is beer more of a problem because of the advertising or is there any way we can analyze that difference?

Dr. **Koop**. Well, we have the findings of the National Commission on Drunk Driving that were published just the week before my workshop where they visited several American cities and took testimony from teenagers and they said with remarkable, almost unanimity, young people did say that they began to drink because of the advertising.

And I think one of the other things that is a misconception of youngsters, and that is that, sure, I would not drink some hard liquor and drive, but beer has such a low alcohol content that I do not have to worry about it. And yet most teenagers that are involved in fatalities—involved with drunk driving—beer has been the beverage that they have consumed.

Senator **Roth**. Well, I think one of your recommendations is to increase the excise tax so that the cost of beer and wine is equal to that of liquor. Could that conceivably push young people into drinking hard liquor?

Dr. **Koop**. No, I do not think so because you would be taxing it proportionately on the alcohol content. So that the tax would be higher per drink on hard liquor than it would be on beer and wine. And we do have remarkable statistics on what a small increase in the price of cigarettes, for example, does to the smoking patterns of adolescents again. Texas did a study that showed that if you increase the price of cigarettes by raising the total cost per pack only 10 percent, that 12 percent of teenagers stop smoking.

Senator **Roth**. So you do feel cost is an effective deterrent?

Dr. **Koop**. It is for adolescents. I would not say across the board, but they have a much more limited source of funds for that particular activity.

Senator **Roth**. Well, my time is up. Thank you, Dr. Koop.

Chairman **Glenn**. Senator Kohl.

Senator **Kohl**. Dr. Koop, we talk a lot about drunk driving, but I think you would agree that the problem is not limited just to drunk driving. It seems to me that the term "impaired driving" is a more apt description and goes well beyond just alcohol abuse. What we are dealing with in our society today is not just a problem of alcohol abuse but of widespread and problematic drug use.

The disease of addiction to drugs of which alcoholism is just one manifestation is such a pervasive problem in our society that driving accidents are only the tip of the iceberg. Do you see your program as being aimed more at the occasional binge user who decides to take the risk of drinking and driving, or do you consider the addict or alcoholic to be just as important an abuser?

Dr. **Koop**. Well, I think that the real alcoholic tends to be an older aged group, and they are not the ones that are involved in the problem we are addressing here today. But such a statement cannot be taken as absolutely set in concrete. Again, it is largely attitudinal. As you confront youngsters who drink, they never think that they have stepped over the line, whereas a person who is an alcoholic, even though he may deny his alcoholism, he does admit freely to the fact that he is impaired.

And I hope that you understand that the reason we use the term "drunk driving" for the workshop is because the organizations that have been so helpful like MADD, and SADD and RID are all talking about drunk driving. We much prefer the term "impaired" because you do not have to be drunk to be a danger on the road, and also the other statement you made is very much where we stand, and that is alcohol is not the only drug that we are concerned about. There are many others, not just illegal drugs, but prescription drugs that many people feel because their doctor recommended them cannot possibly be something that would impair their ability to drive, but that is also true.

Senator **Kohl**. Dr. Koop, you recommend that beer advertisements be balanced with equal time public service announcements.

Who would pay for these PSAs, and in your opinion who should pay for these PSAs?

Dr. KOOP. Well, I think that the private sector would do a lot about them, and if you notice, what we did was to leave open the modus operandi hoping that the gap would be filled and the problem would be addressed. But if not, then we would hope that money could be spent to construct proper, innovative, creative teaching public service announcements especially addressed at young people.

Senator KOHL. I am not sure that I got that. Who should pay for these PSAs?

Dr. KOOP. We would hope that Government funds would not be necessary but that voluntary agencies would take care of the problem and fill in the gap. But if that does not take place, then our recommendation was that that would be a good expenditure of Government money.

Senator KOHL. So you are not suggesting that these PSAs should be handled by the broadcast industry for free or anything else of that sort?

Dr. KOOP. I would be very happy if they did.

Senator KOHL. Right. Well, I would imagine that if they would, that they would somehow pass the costs on in some way, shape or fashion. They would increase their rate to make that up with respect to the rest of their advertisers.

Dr. KOOP. Well, I think that that is a fact of life, and I would not object to that way of paying for it. What I am interested in is getting the message out to young people and avoid the problem one always has when you have to spend Government funds to do that.

Senator KOHL. Okay. Dr. Koop, I have always wondered about the feasibility of actually keeping convicted drunk drivers off the road. One of the local TV news stations recently completed a week long series about the ease with which convicted drunk drivers can get back behind the wheel. Some of this is due to inadequate processing of drunk driving arrests and convictions, but even in cases where a person's license was revoked, such an individual would sometimes leave the courtroom, get in a car, and drive away moments after the court had taken away their license for drunk driving.

Short of following these people around night and day, how can the police possibly ensure that people who have lost their licenses cannot get behind the wheel?

Dr. KOOP. Well, there are many cracks in the system, sir, and that is where we would hope that the coalitions that we have started at the Federal level, we would like to see now move in the States and then get down to the grassroots. It is only when the grassroots people who are affected by the tragedies and the grief and the loss of the victims of drunk driving get into the act and say this cannot go on that the combination of transportation and law enforcement people will step in and do something about it.

I do not in any way minimize the problem, but I recognize as I have studied this that there are many ways that the cracks develop, and there is great sympathy for the injured. I had a friend who knows he has an alcohol problem in one of the eastern States that has very tough drunk driving laws, he was arrested for drunk driv-

ing after an accident, had his license suspended for 6 months. But on the second occasion, within 2 weeks after he had his license restored, he totaled his car by smashing into a tree. No one was hurt and no property was damaged except his body and his car. The action of the police was not to arrest him on a drunk driving charge because they felt that the accident already had punished him enough and he had a long period of recuperation.

That kind of sympathetic thinking for someone who is really in trouble has got to be altered because that person does not need punishment. He needs rehabilitation. And that is what we would hope that the increase in excise taxes both at the Federal level and the State level would be channeled into preventive programs so that a man like that recognizes his difficulty and is pushed by society into a system that takes him off the road until he is able to handle the problem of drinking without driving.

Chairman GLENN. Senator Lieberman.

Senator LIEBERMAN. Dr. Koop, one of the major missions of this Committee is oversight of existing governmental structures and the work that they are doing. In that regard, I was interested to note that one of your workshop's recommendations was that the responsibility for regulating the alcohol industry be removed from the Bureau of Alcohol, Tobacco and Firearms and placed into the Food and Drug Administration. I wonder if you could explain to the Committee why that recommendation was made, and how you feel personally about it?

Dr. KOOP. Well, I think the bottom line, sir, to give you a short answer, is that the bureau that now regulates alcohol does not really have a health component, and we believe that the reason that the Surgeon General is involved in this is because we are dealing very much with a health problem. And that the Food and Drug Administration which is one of the agencies of the Public Health Service does have the expertise and the knowledge and the ability to work closely with a sister service like the Alcohol, Drug Abuse and Mental Health Administration in presenting the health aspects that should be used in regulation.

They are in the business of regulating foods, drugs and cosmetics for the protection of the American people, and they also are into devices such as those used for radiologic diagnosis or other things medically, and I think therefore they are the best prepared to do so.

Senator LIEBERMAN. Could you describe, then, for the record—and I understand the limits of time—what the responsibilities of the BATF have been in regard to the alcohol industry?

Dr. KOOP. I do not think that I could answer that question, sir, in a satisfactory way to us at this moment, but I would be very glad to supply it.

Senator LIEBERMAN. Okay. But your major concern is not whether they have adequately dispatched the responsibilities we have given them under law, but the fact that BATF does not have a health component.

Dr. KOOP. That is exactly right.

Senator LIEBERMAN. And the FDA does. Moving on then, could you assess the existing structure that we have at the Federal level in regard to education, prevention and treatment of alcoholism throughout the country? Do you think the structure is adequate?

Dr. **Koop**. I would like to ask Mr. Archer to do that because again it comes under his aegis.

Mr. **Archer**. I would hesitate to answer from a scientific standpoint. I think that clearly from an organizational standpoint the Department of Education, Department of Health and Human Services, Department of Transportation have all worked closely in this area, and appear to be functioning well, but that is more a political judgment.

Senator **Lieberman**. I understand. From your perspective, and I do not know whether you have a reaction to this based on your involvement so far, have the Federal agencies with responsibility in the area of education, prevention and treatment been performing adequately? Is the structure, at least, adequate for the task?

Dr. **Koop**. I think the structure is adequate to the task. I think there is a tendency for people in our position who see the enormity of the problem to compare the resources we have to prevent the carnage we are talking about now as opposed to the industry's resources that seem to be sending another message. So to answer your question, we always could use more money, but I think the structure is adequate, sir.

Senator **Lieberman**. Do you have any sense of how much more money we could use? I know we can always use more money, but what is the range of the funding problem? Did your workshops reach a point where you would make a recommendation to Congress about what our goals should be for adequate funding?

Dr. **Koop**. No. We tried to avoid specific mention of dollar amounts, but rather through the general generic concerns back to Congress, thinking that they have a better understanding of the other concerns in reference to money and the demands made upon them. The total amount now, Loren, is what, $30 million all put together.

Mr. **Archer**. On prevention, yes.

Dr. **Koop**. On all of the programs and all the Federal Government that are aimed at the prevention of the problem we are talking about, not just the driving, but of all alcoholism, the illnesses, the things you heard about, Veterans Hospital admissions and so forth is $30 million.

Senator **Lieberman**. $30 million is a pretty small amount. Let me turn to the local level for a moment. Maybe I should ask you generically since time is running out. Can you cite a few treatment programs or education programs that you came across in your workshop that you think were particularly good success stories that we might use as models?

Dr. **Koop**. I would be glad to provide you some of the details, sir, but I think the problems, the programs that I would favor and that I think have the greatest impact not only upon the individual who has the problem of driving after he has been drinking but also on the community are those programs that are not aimed at a punitive action against the individual but recognize that here is a person who with proper rehabilitation can be made into a safe driver because he does not drink.

Senator **Lieberman**. So that even though your recommendations have what look to be heavy punitive components to them, you certainly do not see that as the end of the problem?

Dr. **Koop**. It does not matter, sir, whether you are talking about drunk driving or child abuse or battered wives, punitive measures tend to stop the program. But the repeat offender is the person who has not been rehabilitated. So local or national or any other kind of punitive measures may stop the problem in its tracks for that one occasion. But if you want to prevent the repetitive offender who is really the guy we are after, then he has to be rehabilitated, whether it is sex or drugs or whatever.

Senator **Lieberman**. Thank you.

Chairman **Glenn**. Senator Bingaman.

Senator **Bingaman**. Thank you, Mr. Chairman. Dr. Koop, one of the organizations that is designed to deal with the problem you are describing is the National Commission Against Drunk Driving. I have been told that the commission refused to participate in your December workshops. I would be interested in your explanation of their thinking. Why would they not welcome your leadership in this area?

Dr. **Koop**. I would be very happy to explain the action, sir. I do not think I can explain their thinking. The National Commission on Drunk Driving was a natural and welcome outgrowth of the Presidential Commission on Drunk Driving several years ago. And the way that things were organized in the early days of our planning for the workshop, they were part of the planning committee, and they moved along with us, and as it got closer and closer to the date and certain people began to drop out and criticize the construction of our panels and the other people we had invited to the workshop, the commission also dropped out.

And we made an appeal to them. The conversation took place between the chairman of their board and my chief of staff, and we pointed out the fact that we needed them more than we needed anybody else to make a solid front to the American people and our report back to you and Congress. And I think we convinced the chairman of the board that by standing with me at the opening session by making some statements, it did not mean in any way that he was endorsing beforehand the conclusions of the workshop nor was he endorsing the manner in which I had set the workshop up.

And up until the day before the workshop itself, I was moving along with the understanding that no matter who else dropped out, at least the commission representative in the form of the chairman and I would stand with Otis Bowen and give the charge to those who had been invited.

He dropped out on that occasion after meeting with, I think he said, "some members of my board." And that is where I cannot tell you what the thinking was, but he called back and said that he did not think that he could make the appearance that he promised but that he would send his deputy, chief executive officer, and that person never did show up.

So those are the facts that happened. And I am not saying this, sir, in criticism of him or of the commission. I recognize that the people on that commission just like we who were in the workshop know the tremendously complex problem that we raise when we talk about drunk driving. You up there behind the platform are all men of goodwill. You are all concerned about this problem, but I think you would all have very different emphases about where you think you ought to go and when you heard one of your colleagues give you his program, you might be very critical of 10 or 15 percent of it.

What our concern was that we not let those differences keep a workshop of this importance from moving forward to have an impact upon the people of America and to report back to you a program on which you could act.

Senator **BINGAMAN**. Could you describe the difference in emphasis that caused them not to participate? What emphasis was reflected in the panels, or the program that you had put forward, that they did not feel comfortable with?

Dr. **KOOP**. What they did not feel comfortable with, they told us, was the manner in which we had constructed the panels. Now my concern about that excuse was that they had been part of the planning committee all along, and I must say that I give great merit badge points to the staff of the National Commission because they worked with us all along and indeed were working with us on the very day that the commission pulled out.

Senator **BINGAMAN**. But could you be more specific as to what was wrong with the panels? What was objectionable about the way, the people you had put on panels?

Dr. **KOOP**. Well, I think the way they stated it was that the people that we had chosen to be chairmen of panels took positions on issues particularly advertising and taxes that were not positions that were shared by the commission. And, you know, again I can tell you what they told me, but I cannot tell you what they thought.

Senator **BINGAMAN**. In your testimony you indicate that some of the tough measures that we must take to deal with this problem include voluntary changes in alcohol advertising and marketing practices. Could you elaborate on that a little? What voluntary changes would you like to see adopted?

Dr. **KOOP**. I would like to see young people not targeted. I would like to see minorities not targeted. I would like to see advertising not made part of a lifestyle that is very effectively pleasant without any consequences on the individual if one abuses the privilege that he has.

I also would not like to see the disassociation of alcohol advertising from role models that young people look up to or to activities that are very exciting for young people. I do not think you ought to show race car drivers or racing or activities such as that with alcohol because it unites the two in the kid's mind where it should separate it. Have absolutely no concern about advertising that talks about the product, what the trade refers to as tombstone advertising.

I think anybody has the right to do that kind of advertising, and you will note in our recommendations in my testimony today and in my testimony at the press conference, we did not call at any time for a ban on advertising, and the restrictions we called upon it we asked that they be voluntary.

Senator **BINGAMAN**. My time is up, Mr. Chairman.

Chairman **Glenn**. Thank you. I know Dr. Koop has to go before too long. We will try to keep this next round to just a couple or 3 minutes apiece here. I know you have an 11 o'clock some place, Dr. Koop. We will try to make this as rapidly as possible.

Dr. **Koop**. I have a 10:30 some place, sir.

Chairman **Glenn**. Oh, you do. Well, okay. Maybe we better end it now. I hate to do that, but can you stay for one question each?

Dr. **Koop**. Go.

Chairman **Glenn**. All right. We are talking about rehabilitation, where that fails. We are trying to get the repeat offender off the highway. They are the ones that cause a lot of the problem, the basic problem we are trying to deal with. Now it would seem to me that if that is the problem, and we want to get the abuser off the highway, and we want to really identify these people, it seems to me the Beer Institute, the Wine Institute, everybody should agree that we want to identify those people. If they are still going to be on the highway, I want to do defensive driving.

I would not mind seeing a scarlet dayglow paint strip put on both bumpers of any automobile owned by a person who has been convicted of drunk driving a second time, say, where rehabilitation has not worked. So I know to look out for that car whether I am ahead of it or behind it. That is somebody I better look out for. Has anything like that been tried and do you think it would work?

Dr. **Koop**. Well, of course, whenever you suggest something like that, there is a great scream that you are depriving people of their liberty, that you are discriminating against a certain class of people.

Chairman **Glenn**. Absolutely.

Dr. **Koop**. And many of us think that such people should be discriminated against.

Chairman **Glenn**. That is exactly the purpose. I may get killed if I do not discriminate against them. I do not know of any program where that has been tried that has been deemed successful. Do you, Loren?

Mr. **Archer**. Perhaps the fellow from NHTSA might have some comment.

Dr. **Koop**. I think the people in Transportation who funded things like that in the past could bring you an answer. We would be happy to try to get that for you, sir.

Chairman **Glenn**. Good. I would like to have any comments you might make on that because I would not mind putting that in legislation myself. Senator Kohl.

Senator **Kohl**. Dr. Koop, restrictions on where and when beer, wine and spirits can be purchased, and how these products can be marketed have not decreased alcohol abuse in a society like the USSR which has extensive restrictions. Why have these restrictions in your judgment not worked there and why do you believe that those kinds of availability and marketing restrictions might work here?

Dr. **Koop**. Mr. Kohl, I am always leery in any health issue of trying to transfer the experience of one culture to another, whether it is the sale of vodka in the USSR or the exchange of needles for drug abusers in Amsterdam. Our people are not quite the same. I just go on the basis of what we know and what seems logical.

Many more people are involved in drunk driving after they come from places where alcohol is sold on a retail basis than coming from parties in their own home or where they have purchased liquor in large quantities at a package store.

And I think that any time you see a number of instances out there that seem to be etiologic in causing the problem you are trying to fix, it seems reasonable to cut down on the numbers of those things or have other restrictions that do not have to limit personal freedoms. Remember we are not trying to say to people you should not drink. We are just saying if you are going to drink, do not drive.

Senator LIEBERMAN. Dr. Koop, Secretary Bennett in his work as the drug czar in putting together a program or recommendations for the country is apparently seriously considering the use of so-called boot camps for drug offenders. How would you feel about that idea for first or second time drunk driving offenders as a way to make sure they are not repeat offenders?

Dr. KOOP. I would much rather see the money that would go into that for an alcohol offender go into a rehabilitation program rather than to a punitive program, and I think that you can carry out a rehabilitation program for a drunk driver without putting him behind barbed wire.

Senator BINGAMAN. Dr. Koop, one of the recommendations in your working group's report is Recommendation No. B-2 on page 28. B-2 says, "Eliminate alcohol advertising and promotion on college campuses where a high proportion of the audience reached is under the legal drinking age." Do you support that recommendation? Do you think that it is reasonable or not?

Dr. KOOP. I do support that recommendation, and I recognize all of the problems that go with such a complex issue as this. But it seems to me that I read an insert by a beer advertiser that appeared in a tremendous number of college magazines and newspapers, and it was offensive to me in that it led the reader to believe that if on spring vacation you were not part of the beer drinking crowd, you just were not living up to the expectations of American youth that took a holiday in the spring.

And I do not remember exactly but it seemed to me that there was a comment in there that if you were not consuming a beer every hour, you were not in with the crowd. I think that is reprehensible, sir.

Senator BINGAMAN. That is all I had. Thank you very much.

Chairman GLENN. Thank you, Doctor. And we apologize to whomever it is you are supposed to be with at 10:30.

Dr. KOOP. I will tell them. [Laughter.]

Chairman GLENN. We appreciate it and we look forward to working with you. It may be your being in a different capacity, but we look forward to keeping in touch with you for your suggestions. Thank you very much for being here this morning. Thank you.

Our next witness is Mr. Bill Scott, Director of the Office of Alcohol and State Programs of the National Highway Traffic Safety Administration. Mr. Scott, welcome this morning. We look forward to your testimony either an abridged version thereof or in its entirety. In either event, the entire statement will be included in the record.

TESTIMONY OF WILLIAM SCOTT, DIRECTOR, OFFICE OF ALCOHOL AND STATE PROGRAMS, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, ACCOMPANIED BY DR. JAMES NICHOLS, DEPUTY FOR SCIENTIFIC AND TECHNICAL AFFAIRS, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Mr. SCOTT. Good morning, Mr. Chairman, and thank you for this opportunity to appear before you. I will give an abridged version, sir.

Chairman GLENN. Good. Your entire statement will be included in the record.[1]

Mr. SCOTT. Thank you. I am happy for this opportunity to give NHTSA's response to the Surgeon General's Workshop on Drunk Driving. With me at the witness table is Dr. James Nichols, my deputy for scientific and technical affairs.

NHTSA helps the States improve their highway safety programs to reduce the number of motor vehicle crashes, deaths and injuries. Over the years our constant goal has been to reduce alcohol impaired driving, the single greatest factor in fatal injury crashes. To provide a context for our views and plans with respect to the workshop's recommendations, I would like to first give you a brief status report on the national effort to combat alcohol impaired driving.

Significant progress has occurred during the 1980's, largely as the product of two events. One is the development of a coordinated set of laws and enforcement techniques to increase the likelihood of arrest and effective punishment. The second is the growth of public sentiment against drunk driving. The energy and effectiveness of the citizen activist groups such as Mothers Against Drunk Driving (MADD), and Remove Intoxicated Drivers (RID), combined with a new emphasis on general deterrence measures has produced a dramatic increase in State legislation and enforcement of DWI laws.

Most importantly, this combination of new laws and stricter enforcement has produced significant reductions in serious drunk driving crashes. For example, the proportion of traffic deaths related to alcohol declined from 57 percent in 1982 to 50 percent in 1989, a 12 percent reduction. In the alcohol-related proportion of fatalities among youth, those under 21 declined by an even greater degree, from 54 percent in 1982 to 43 percent in 1988, a 20 percent reduction, thanks largely to the adoption by all 50 States of age 21 minimum drinking age laws.

Despite these reductions, about half of all motor vehicle crashes continue to be alcohol related. That means that alcohol plays a role in nearly 24,000 traffic deaths, so drunk driving clearly remains our number 1 highway safety problem.

We thank you for holding these hearings and we certainly commend Dr. Koop for taking the initiative to address the drinking and driving problem in a comprehensive manner and for calling it what it is, a major public health issue.

DOT was one of five departments that funded the Surgeon General's Workshop on Drunk Driving, and NHTSA was involved in both the planning and the conduct of the workshop. I can assure you that we are committed to helping to implement the workshop's recommendations related to our agency's mission and programs.

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[1] See p. 137.

Several of the workshop's recommendations are of particular interest to NHTSA. A recommendation we have strongly encouraged is for States to enact administrative license revocation systems in which the arresting officer would have on the spot authority to take the driver's license of any driver found driving with a blood alcohol content above the legal limit.

This program provides swift and sure license sanctions and has proven to be one of the most effective means of reducing drinking and driving. There are some 27 States that have now adopted this program. We believe that much more can be done to ensure that people who are found driving with a BAC above the legal limit do not continue to drive after their licenses are suspended or revoked. We therefore support the recommendation that States should be able to confiscate the license plates of repeat offenders and those found driving while suspended.

We believe every effort must be made to ensure that the most serious offenders do not continue to operate any vehicle on the Nation's highways.

The recommendation that each State provide a self-sufficient funding system for comprehensive alcohol impaired driving programs is also one that we have promoted for many years. We firmly believe that those who cause the problem must help pay for its solution.

Mr. Chairman, we wholeheartedly endorse the recommendations of the workshop concerning the enforcement of drinking and driving laws. Enforcement is the critical element in the system of deterring drinking and driving. If police do not detect and apprehend impaired drivers, the system simply fails.

We assist States in training enforcement personnel to use standardized field sobriety tests and Horizontal Gaze Nystagmus tests, to identify drivers who are found driving while impaired. The agency also assists the States in training enforcement personnel in the use of passive alcohol sensors and preliminary breath test devices.

One new enforcement technique that is proving to be especially effective is the Drug Evaluation and Classification or DEC program. This enforcement tool aids in the detection of alcohol and other drugs taken by individuals who are arrested for impaired driving. We are currently developing a national DEC program, and we now have police at 10 pilot sites spread throughout the country using the DEC program. We expect to expand the program in the future to all major metropolitan police agencies, and we have sought added funding for this purpose in our fiscal year 1990 budget request.

We believe that sobriety checkpoints can be a key component of drunk driving enforcement and detection programs. When these checkpoints have been highly publicized and conducted according to accepted procedures and constitutional safeguards they have been proven to be most successful in deterring drinking and driving.

We agree with the workshop conclusion that a well-planned, highly visible public information effort is an essential component of a comprehensive program to deter drinking and driving. If drivers believe that they will be caught and punished for driving while impaired, the odds are certainly much greater they will not drive after drinking. We also recognize the need to develop media messages targeted to specific groups such as parents who are concerned about being good role models for their children and special populations that are over-represented in crash statistics.

One project in this area we are especially proud of is the comprehensive effort called TEAM. It stands for Techniques for Effective Alcohol Management. The goals of TEAM are to develop sensible alcohol policies for professional sports and entertainment events and to enable stadiums and arenas to act as role models for community actions against drunk driving. Policies are adopted governing such factors as when and where alcohol is sold, the serving size, cut-off times, and proper age identification. This program delivers the "don't drink and drive" message to millions of fans repeatedly throughout the course of a season. And it prevents the abuse of alcoholic beverages by fans in stadiums and arenas, thereby reducing the likelihood that individuals will become alcohol impaired.

TEAM is an outstanding example of public and private sector cooperation in the effort to combat drunk driving. We must constantly develop new initiatives such as the TEAM program to involve people at every level of the public and private sectors. Our newest initiative was launched just 2 weeks ago when Secretary Skinner met with a group of business executives and public officials to form a Highway Safety Leadership Council to reach millions of Americans. The council will recruit businesses and government employers to adopt alcohol and drug-impaired programs for the work site where tens of millions of Americans spend their day.

Drunk driving education efforts must also be an essential component of a comprehensive approach to reducing impaired driving. Our agency has joined with the Departments of Education and Health and Human Services to develop workshops to promote traffic safety policies and programs on alcohol and other drugs for colleges and universities.

Other agency education efforts are underway for health care professionals, community leaders, and organizations working with youth. On the recommendation concerning the legal blood-alcohol concentration or BAC limits, we support State efforts to set stricter standards for people under 21. We agree with you, sir, that the legal limit for anyone under the legal purchase age of 21 should essentially be 0.00.

In regard to the general population, we encourage States to reduce the BAC below the 0.10 level. There is a huge body of research that shows convincing evidence that drivers' abilities are substantially impaired at levels well below .10.

Although the recommendations relating to advertising and marketing of alcoholic beverages do not fall within our direct purview, we are nonetheless concerned about any advertising or marketing practices that are directed to youth who are under the legal drinking age. We support the recommendation for the industry to restrict such practices voluntarily. We call your attention to the fact that teenagers who testified before the National Commission Against Drunk Driving for its 1988 youth report stated, "that alcoholic beverage advertising encourages youth to drink."

We firmly believe that our young people should be given an unequivocal no use message. Finally, I want to underscore the importance the Department places on the need to coordinate our drunk driving prevention policies and activities with those of other Federal departments and agencies.

In addition to NHTSA's membership in the workshop's Federal Task Force that is charged with reviewing and monitoring implementation of the workshop's recommendations, we have joined with the Departments of Justice and Health and Human Services to develop community based approaches to reducing alcohol related problems among youth. And we have joined with the Departments of Education and Health and Human Services in conducting workshops for colleges and universities. We work closely with Alcohol, Drug Abuse and Mental Health Administration, the National Institutes of Alcohol Abuse and Alcoholism, and the Office for Substance Abuse Prevention on both a formal and informal basis on a broad range of issues.

Mr. Chairman, I reaffirm our commitment to implementing those recommendations of the Surgeon General's Task Force of concern to our agency, our mission, and our programs. We are committed to doing as much as we can with as many people and organizations as we can for we believe only a well-coordinated comprehensive effort will provide the programs and the actions needed to continue the reduction of alcohol related crashes. With everyone working together, we are confident that further decreases in these terrible, unnecessary crashes can be achieved. This concludes my statement.

Chairman GLENN. Thank you. We will stick with the 5 minute rule that we established earlier here. We all want to prevent the problem from starting, and that is where talk about advertising limits and warning labels and taxing and making it more expensive and all the things like that that are longer term. But that is not going to solve the whole problem. We know that, at least not in our lifetimes probably. We talk about offenders and being rehabilitated, but then beyond that it seems to me that the very certainty of punishment of something bad happening if you are a transgressor beyond, say, the second time you get into trouble has to be there.

Over in the Scandinavian countries, where I visited some years ago, they have very tough drunk driving laws and when the trays of beverages are passed around at the cocktail party, the alcoholic beverages are on there, but on one end of the tray is the orange juice and lemonade and the soft drinks for whoever is the designated driver for the group that came. Or they come in a taxi because they know if they get picked up for drunk driving, why they lose their license; I think, the first time offense is for a year or whatever it was. It was a lengthy period of time, and the second offense, they lose it for life, and if they violate that it is very tough, very tough. You go to jail for a lengthy period of time.

So that is quite an incentive to not drink at the party and to not drink and drive. Now, some of the more, it might be looked at as bizarre punishments in this country, I have read about in the past, are a requirement to visit the local morgue, and view dead bodies that have come out of some accidents. I saw that in a newspaper report one day. I thought that was a great idea for second time offenders myself.

Another deterrent I saw once was of a judge giving a person a choice of a certain penalty or attending so many funerals of people killed in alcohol related deaths on the highways. Another one I suggested a little while ago, I think you probably heard here, if we have a second or third offender out there on the highway, I want to know who those people are so I can watch out for them and drive defensively.

Do these things not work? Or are we not willing to try them? Are they offensive or do the civil libertarians object to these things so much that we just cannot do them? Have we ever tried things like this that would identify second and third offenders that are one of our basic problems out there on the highway. If not, why not?

Mr. SCOTT. We certainly agree with you that the repeat offender is one of our basic and certainly one of our most serious problems. And we certainly want to do all we can to deal with that problem. The kinds of things you have mentioned have been tried in some locations. I do not know of anywhere where there has been any kind of evaluation of their effectiveness in terms of some kind of bottom-line results.

I think you would agree with me, sir, the thing we want to do in the first instance is keep them off the road.

Chairman GLENN. Agreed.

Mr. SCOTT. One of the things we believe, and it is also one of the recommendations in the Surgeon General's Workshop that we would like to see more States try, is for repeat offenders to suffer mandatory license and license plate confiscation. We think that would be an effective measure, and perhaps some variation of that with your suggestion is something that could be tried in the case where a license plate were removed from the only car in a family and that car was essential to transportation. In that instance, then, perhaps some device to make that vehicle obvious to other drivers could be tried.

Chairman GLENN. License plate in addition to losing your driver's license, I presume?

Mr. SCOTT. Yes, absolutely.

Chairman GLENN. Because if you left the driver's license, they would just go lease a car.

Mr. SCOTT. That is absolutely correct, sir. Take the license first. If they continue to drive, then take the license plate. Also, there are other things that have been tried, such as the in-vehicle alcohol sensors, which are ordered by courts and are frequently imposed on drivers who have been repeat offenders. Again, it is an attempt to ensure that if a person is going to drive that vehicle then they are alcohol free when they are doing it.

Chairman GLENN. How reliable are the tests for breath analyzers, breath sensors? Are these reliable enough that—the Surgeon General has suggested that NHTSA establish in conjunction with National Bureau of Standards and IACP certification criteria for passive breath sensors for DUI equipment. Do you intend to do this?

Mr. SCOTT. Let me ask Dr. Nichols that question.

Dr. **Nichols**. Yes. In fact, we have had a program for some period of time with the Transportation System Center which actually tests all new breath test devices whether they be preliminary breath testers, evidential breath testers or the new passive alcohol sensors. Now the next step, of course, would be just to develop the standard.

Chairman **Glenn**. My time is almost up here. Mr. Scott, could you give me an assessment of how we identify the repeat offenders out there on the highway so the rest of us can drive defensively? What is your opinion on my suggestion? Should we encourage some States to try programs like this? After you have had a chance to think about it a little bit which I know you already have done anyway, could you give me an opinion on it as to whether this is something that we should move forward with in legislation?

Mr. **Scott**. I would be happy to submit for the record, sir, some more thoughtful comments, but I would just reaffirm, I think, the point that Dr. Koop made that when you deal with a repeat offender, you are dealing with a person almost always who has a serious substance abuse problem. There is no easy solution. Somewhere along the line getting them into a treatment and getting that basic problem cured has to be part of the process. I would be happy to summarize the kinds of things we know that are being done and also give you any suggestions we might have.

Chairman **Glenn**. We would appreciate it. Thank you.

[Information supplied by Mr. Scott follows:]

Most DWI offenders are problem drinkers and many are alcoholics. We know that about 75% of all alcohol-related fatal crashes involve a highly intoxicated driver (average BAC .16), who frequently drives impaired, but has never previously been arrested and convicted. Thus, any effort to significantly reduce alcohol-related crashes must rely heavily on strategies to modify the behavior of offenders who are not caught as well as those who are apprehended and punished.

General prevention efforts, such as public information, responsible serving practices, reduced marketing of alcohol toward youth and effective education programs can have some limited impact. However, a strategy of general deterrence based on fear of *arrest* and *sanction*, particularly loss of license, holds considerably greater potential for modifying the behavior of offenders who are caught, and to the extent that arrests and loss of license and other sanctions are highly publicized, we have a significant potential for deterring from drinking and driving existing and potential offenders who have not yet been caught.

Drivers with three or more DWI-related offenses constitute less than two percent of the DWI-related offender population and less than five percent of the alcohol-related fatal crash problem. Yet, individually, they have the greatest probability of being involved in a serious alcohol-related crash. Therefore, in addition to loss of license, fines, confinement and referral to treatment, these people need to be clearly identified as habitual offenders and should lose the ability to operate (or perhaps even possess) a motor vehicle until they can present medical evidence that they have their substance abuse problem under control.

Chairman **Glenn**. Senator Kohl.

Senator **Kohl**. Yes. Mr. Scott, Surgeon General Koop has recommended that Congress enact legislation withholding highway funds from those States that fail to enact administrative revocation of the drivers' licenses of those caught driving drunk. That would be a strong incentive for States to enact administrative revocation. Given the remarkable compliance we saw with raising the minimum drinking age to 21 brought about by legislation in 1984 to withhold highway funds and given the life saving potential of administrative revocation, do you think that the time has come for us to take up the Surgeon General on his recommendation?

Mr. Scott. I am not sure what the department's position would be relative to the sanctioning aspect. We certainly want to do anything we can to get more States to adopt those provisions. Philosophically, we would more likely come down on the side of incentives, and there are two acts passed by Congress that provide, we think, ample incentive for States to adopt that legislation. That is Section 408 of title 23, U.S. Code, and also the newly passed Section 410 of title 23, U.S. Code, from the 1988 Omnibus Drug Bill.

And 408 certainly has had a major impact. There are many States now, 27, for example, three within the last couple of months, that have adopted administrative license revocation systems. Many States are considering it, sir, so I am not just not sure about the sanctions versus incentive approach.

Senator Kohl. Okay. In 1988 Congress passed a bill called the Drunk Driving Prevention Act, which instead of withholding money would make grants to those States which enact administrative revocation and create self-sufficient stop DWI programs. Your agency during the last Administration testified against that bill. The Bush Administration thus far has asked for no funding for the Drunk Driving Prevention Act. What we might be left to conclude is that either the Administration does not want the Federal Government involved in this area or that it prefers some other method of encouraging the States to respond. Do you have any comments on that?

Mr. Scott. There are several comments I could make. One is that we were concerned about some aspects of that legislation. We did not choose to ask for money in fiscal year 1990 because it was our judgment that the requirement that States would have to meet in order to meet the prompt suspension requirement, which was 15 days, was so difficult that we knew of no State that right now could meet that. And we felt that it would take time to do two things: one, to get the implementing regulations in place for that legislation. That would take time. Then two, to have States get their own systems and laws in place so they could qualify for that. That would bring us more nearly into fiscal year 1991 timeframe.

Senator Kohl. Thank you.

Chairman Glenn. Senator Bingaman.

Senator Bingaman. Mr. Scott, let me ask a couple of questions about your testimony. Your written testimony says that we recognize the need to develop media messages targeted to specific groups, such as parents who are concerned about being good role models for their children, and special populations that are over-represented in crash statistics. Does your agency do that? Have you produced and placed media messages?

Mr. Scott. We have done some of that, and we have done some of that in cooperation with the Ad Council. Some broad, more general messages have been made through the TEAM program, which I mentioned. We have some messages that are very specifically directed to the people who attend sporting and entertainment events. And those messages have been developed with very little funding from us, primarily through contributions of funding and time made available to us by the members of that TEAM coalition, and that includes CBS, Inc. and the National Basketball Association and major league baseball.

We have gotten significant exposure to some very important "don't drink and drive" messages seen in prime time through that program, but we would like to do more of it, sir.

Senator BINGAMAN. You have actually produced, in coordination with the Ad Council, public service announcements against drinking and driving that have run on national networks during sports events? Is that what you are saying?

Mr. SCOTT. The ones during sports events were not produced with the Ad Council. They were produced with major league sports in separate instances with major league baseball, with the National Basketball Association. The air time, the prime air time, was donated by either baseball, basketball or CBS, Inc. which was also involved in those spots.

Senator BINGAMAN. Is this an ongoing activity of your organization?

Mr. SCOTT. Yes, it is, sir.

Senator BINGAMAN. And how extensive is the program that you are describing? Do we see a certain number of these each week on television, or what is the situation?

Mr. SCOTT. If you watch baseball and watch basketball during the course of a week, throughout most of the season you would have seen at least one of these spots. I do not have it for you, but I will be happy to get the record, the playing time, the number of plays and when, and I can give you an estimate of the dollar value in terms of prime air time purchase that we have received.

Senator BINGAMAN. That would be very useful, if you could provide that.

Mr. SCOTT. Happy to do that, sir.

[Information supplied by Mr. Scott follows:]

The TEAM program, through its communication and public information effort, has attempted to bring the TEAM message to the public. National media campaigns featuring television public service announcements with accompanying print materials and live announcer copy have been used since 1985. During 1988 and the early part of 1989, the TEAM public information program developed several campaigns which received considerable exposure through donated air time and dissemination of materials.

Although we lack detailed figures for network radio and local air time we estimate that donated air time in 1988 was valued at over $1.5 million, bringing the total value of donated air time to the TEAM program to over $7 million.

CBS recently notified us, for example, that in May and June the Magic Johnson/Designated Driver PSA was shown as follows:

Program/segment	Time	Dates
Sunday Morning News	9:00–10:30 a.m.	5/7, 14, 21, 28.
CBS This Morning	7:00–9:00 a.m.	5/3, 10, 17, 24, 31.
Pat Sajak Show	11:30–1:00 a.m.	5/1 thru 5/5, 5/8 thru 5/12, 5/15 thru 5/17.
Nightwatch	2:00–6:00 a.m.	5/18, 5/21 thru 5/25, 5/28 thru 5/31.
Presidential Portrait	9:58 p.m.	5/8 and 5/22.

For June, CBS reported:

Program	Dates
Pat Sajak Show	6/1, 2, 5, 9, 12, 16.
CBS This Morning	6/2 9, 16, 23, 30.

Program	Dates
CBS Morning News	6/7, 14, 21, 28.
CBS Late Night	6/2, 9, 16.
Nightwatch	6/19, 23, 26, 30.

Senator BINGAMAN. This national driver register that you refer to here, it seems to me—I was just reading through your testimony—a national computer registry of drinking and driving offenders in which every State has reciprocity in recognition of with other States. It is a great idea. I gather it has been implemented to an extent, but you talk about the Congress first indicating establishing it in 1960, and we had about 140,000 individuals identified through this in the last year; is that right?

Mr. SCOTT. That is correct, sir.

Senator BINGAMAN. It seems to me it does not sound like it has really been developed to near its potential; am I wrong?

Mr. SCOTT. No. I think you are absolutely correct. The Congress passed an act in 1982 which has led to significant improvements of the national driver register, and there has been a new design and essentially a new concept that is being implemented and has been pilot-tested. The pilot test was completed last year and a report was submitted to the Congress this spring on the new driver register which will make it much more effective and efficient and more timely in identifying problem drivers.

Senator BINGAMAN. Is it your agency's responsibility to implement that report?

Mr. SCOTT. Yes, it is.

Senator BINGAMAN. And do you think you are adequately funded to do so?

Mr. SCOTT. I think we are, sir.

Senator BINGAMAN. And how quickly do you expect to have the system up and full-blown?

Mr. SCOTT. A difficult question to answer because participation and the rate at which States improve the input process are voluntary on the part of the 50 States.

Senator BINGAMAN. Should it be?

Mr. SCOTT. I think that things are working very well now and I think that because of other things that have happened, including this heightened concern for finding problem drivers throughout all modes of transportation, that States will, in fact, come on board relatively quickly and probably at a rate as quick as we can handle them if not quicker.

Senator BINGAMAN. It seems to me if the problem is that we do not want a person being convicted of drinking and driving in one State and then not being held accountable for that record in other States, there would be a real interest in ensuring that every State participate and report the information. I do not know. Maybe there is a reason why a State should be able to opt out, but it does not seem like a very responsible course to allow.

Mr. SCOTT. Every State does participate, sir. What varies is the way in which they participate and the extent to which they routinely check the file. And there is a lot of variability among States now, but there are things that are driving this new system, such as on-line access, which means the State has to essentially have its driving licensing process computer driven and on-line. So a State that does not issue over-the-counter licenses, for example, probably does not have the computer hookup that allows it to connect to the national system to take full advantage of its timeliness.

Senator BINGAMAN. My time is up. Thank you, Mr. Chairman.

Chairman GLENN. Maybe we could have just one question per Senator as another round here, and I would start off. What would NHTSA's position be on legislation which implements the Surgeon General's recommendations? Which of the recommendations would you not agree should be passed?

Mr. SCOTT. I guess we would limit our specific comments to those recommendations that fall within the purview of the NHTSA and Department of Transportation. I think as you know, sir, there are well over 200 individual recommendations. I think every one of them deserves serious study and consideration. I do not know of any that fall in our area that we do not support.

Chairman GLENN. I was thinking of the 10 basic ones.

Mr. SCOTT. Oh, the 10 summary ones?

Chairman GLENN. Yes.

Mr. SCOTT. Of the 10 summary ones, the ones that we feel are not in our purview are those dealing with taxation, advertising and marketing. They fall largely outside the purview of our charge.

Chairman GLENN. You do not necessarily oppose them. You just feel they are not in your jurisdiction; is that right?

Mr. SCOTT. That is correct.

Chairman GLENN. All right. Thank you. Senator Kohl.

Senator KOHL. Mr. Scott, do you know very much, or can you make some comment about the new technologies which are being developed whereby repeat offender's car could be rigged with a device to prevent it from starting unless the driver passed a breathaliser test?

Mr. SCOTT. Yes.

Senator KOHL. What can you tell us about that?

Mr. SCOTT. Because he can probably do a better job, let me ask Dr. Nichols to answer that.

Dr. NICHOLS. Those devices have been developed since 1970, and we at the National Highway Traffic Safety Administration have had a research program involving them since that time. There are essentially two types: behavioral devices and chemical test devices. I think that they are reliable. There is a limited amount of valid research on them, and what research I have looked at suggests that there is some recidivism reduction effect due to them. That means that if they are used, they should be used as an adjunct and not as a replacement for actions such as license sanctions, which have, in addition to a recidivism reduction effect, a general deterrent effect.

In other words, since three-fourths of the fatalities that are alcohol-related involve a drunk driver who was unknown to us previously, it is very important that we deter these drivers. License sanctions have the ability to provide a general deterrence for everybody in addition to reducing the recidivism of repeat offenders to some extent.

The interlocks could help that. In other words, when a person has received a swift and sure license action, and he is being brought back into the licensed-driver population, consideration should be given for putting an alcohol safety interlock on that person's vehicle. It is probably one of the best behavior modification devices we could think of.

Chairman **Glenn**. Senator Bingaman.

Senator **Bingaman**. Mr. Scott, let me ask for the record—I doubt that you are prepared to respond today—but you discuss in your testimony on page 9—a new national driver registry system. Could you supply the Committee with a written description of when you expect that new system to be fully implemented, or in full operation?

Mr. **Scott**. Yes, sir, I will be happy to.

Senator **Bingaman**. Over what period of time. We would appreciate that.

[Information supplied by Mr. Scott follows:]

Due to the voluntary nature of the National Driver Register (NDR) program, we cannot predict the precise date the new system will become fully operational.

Pursuant to section 204(c) of the National Driver Register Act of 1982, our next step is to establish procedures whereby the States may notify the Department of their intentions to participate in the new system. The agency expects to complete this rulemaking during fiscal year 1990. After these procedures are in place, the question as to when the new system is fully operational will depend on the pace the States join the system. However, by the end of fiscal year 1991, we expect 15 States will be participating in the system and all 51 licensing jurisdictions will be submitting commercial driver license file checks to the NDR. By the end of the fiscal year 1993, we anticipate that the 30 States that issue instant driver licenses over-the-counter will be participating in the system.

Chairman **Glenn**. Thank you, Mr. Scott. Thank both of you very much. We are going to have to move on because of time constraints. There may be questions that other members of the Committee have that we would appreciate your early response so those answers could be included with our record.

Our next panel consists of four people: Mr. Edward O. Fritts, President and Chief Executive Officer of the National Association of Broadcasters; James Sanders, President of the Beer Institute; Douglas Metz, Executive Vice President, Wine and Spirits Wholesalers of America; and Dr. Dan Beauchamp, American Public Health Association.

Gentlemen, we welcome you to the hearing this morning, and look forward to your testimony. If you could abridge it, we would welcome that so we have as much time as we can for testimony. If not, give your testimony in full. In either event, the entire testimony will be included in the record. Mr. Fritts, if you would lead off we would appreciate it.

TESTIMONY OF EDWARD O. FRITTS, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL ASSOCIATION OF BROADCASTERS [1]

Mr. **Fritts**. Thank you, Senator. I am pleased to be here today to represent the thousands of radio and television stations across America who along with members of this Committee are committed to bringing an end to the tragedy of drunk driving in this country.

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[1] See p. 148 for Mr. Fritts' prepared statement.

As you know, Mr. Chairman, the National Association of Broadcasters and its member stations have been leaders in the war against drunk driving and substance abuse for many years. For the past 7 years in a coordinated way, NAB has waged a national campaign against drunk driving which annually kills 24,000 people. Through our various public service campaigns and other efforts, we estimate that we contribute nearly a billion dollars per year to the war on substance abuse. Now that is not an insignificant figure, and it is a public responsibility which we take very seriously.

The broadcasting industry is proud of its last decade's record of accomplishment on this issue and we welcome Dr. Koop's entry into the war in which all Americans and all industries must play an important part. Working together to provide server training, educate the public, toughen law enforcement, and make drunk driving and alcohol abuse socially unacceptable, we will see a continued progress against this serious national problem.

I would like to highlight some of the activities our members have undertaken to educate the public about the dangers of drinking and driving. Over the past 6 years, we have sponsored the national Operation Prom/Graduation Program. It is among the largest and most comprehensive anti-drunk driving campaigns ever put together. We are heartened to see that hundreds of schools across the Nation and student groups are sponsoring alcohol free proms and graduation parties and saving thousands of lives each spring.

We have also joined with the National Basketball Association, the U.S. Department of Transportation, and major league baseball in the TEAM coalition which Mr. Scott spoke about earlier. Perhaps one of the activities that I am especially proud of is our association with the Mothers Against Drunk Driving. You know broadcasters are parents, too, and we share MADD's concern on this issue.

This grassroots organization has been a true leader in this fight, and we were pleased to join with them last year to sponsor a national conference here in Washington for youth. The conference included both adults and teens with the theme "think, don't drive and drink." And at our recent NAB convention in Las Vegas, I was pleased to receive MADD's first ever National Media Award on behalf of our membership's work on this particular issue. Just this month, we have completed work on a new series of public service announcements involving over 100 congressional spouses.

These articulate spokesmen and women will continue our longstanding commitment to fighting against drunk driving by educating the public and by sensitizing society to the need to make the abuse of alcohol unacceptable as social behavior.

Mr. Chairman, all of these activities and more are contained in these 300 pages of filing which we would like to include in our written statement to this Committee. It is the same 300 pages of filings which we suggested Dr. Koop include in his considerations as he put together his recommendations. The fact that we have no evidence that he considered any of this material is unfortunate, and we believe that its absence is one reason why his recommendations are not in total balance.

After looking at the vast preponderance of evidence, we still see no clearly established causal relationship between alcohol, advertising, and the abuse of alcohol. Even the Surgeon General himself admits that we should study the issue more closely, and we heartily agree. Yet all of these recommendations on advertising are based upon the assumption that advertising does, in fact, create alcohol abuse.

We are particularly concerned with several of the recommendations made by the Surgeon General relating to advertising. In his findings, Dr. Koop suggests that broadcasters be required to air counter-advertising in order to theoretically balance the messages presented by beer and wine advertisers. Such a requirement clearly creates serious problems on a number of levels as well as constitutional questions.

The fact that broadcasters are already providing millions of dollars in community service and air time each year to fight substance abuse, it is inappropriate to require broadcasters to air an equal number of public service announcements to balance ads which the Surgeon General assumes encourage drunk driving.

The Surgeon General also wants to halt the sponsorship of athletic events by alcohol advertisers which is an unfair invasion of the legitimate business' right to promote its product. We do not believe that the Government ought to be in the business of telling legitimate manufacturers how they should market a legal product which is enjoyed in moderation and without abuse by millions of Americans.

In addition, statistics indicate only 7 percent of weekend sports programming viewers are teens, the smallest percentage of any program category by day part. The Surgeon General also suggests elimination of tax deduction for advertisements and promotion of alcohol products, except for those which involve price or product advertising.

Here again, such legislation would penalize businesses for advertising legal products. I would like to also point out that the National Commission Against Drunk Driving is currently in the midst of a massive 16-month long Federally funded survey on this same subject. We believe this study will go a long way toward helping judge the effectiveness of many of the anti-drunk driving efforts which are being undertaken throughout the Nation.

This survey is to be completed by January, and we would hope that the Committee would give careful consideration to this important overview of the issue as well as it judges the facts on the issue.

The National Association of Broadcasters is proud of our record in the war against drunk driving. We have helped lead the effort to make the public more aware of the dangers of drunk driving, and to make such activity socially unacceptable. We intend to continue to lead the fight along with Federal and State Governments, grassroots organizations like Mothers Against Drunk Driving and others, and I hope as your Committee looks at the totality of evidence on this issue, it will reject the emotionalism which the issue creates for all of us and look only at the facts. Thank you, Mr. Chairman.

Chairman GLENN. Thank you, Mr. Fritts.

Mr. Sanders, President of the Beer Institute.

TESTIMONY OF JAMES C. SANDERS, PRESIDENT, BEER INSTITUTE[1]

Mr. SANDERS. Thank you, Mr. Chairman, and on behalf of the Nation's brewers I appreciate the opportunity to speak with you on a common goal of vital importance, the reduction of drunk driving. For more than a decade, thousands of workers inside and outside of Government have focused public attention on making our highways safer. Among the many useful and effective programs which have been proposed and implemented are the ones supported by the American brewing industry.

America's brewers invest tens of millions of dollars annually on national advertising and the support of educational programs to encourage only the responsible consumption of alcohol and to discourage irresponsible and underage drinking. The results have been encouraging. With Government and private sector support and the real concern of all Americans, the proportionate involvement of intoxicated drivers in fatal accidents has decreased 17 percent since 1982. More important is the reduction in fatalities among young drivers age 15 to 19. Those fatalities have decreased by one-third according to the National Highway Traffic Safety Administration.

Of course, more remains to be done, and while we strongly agree with the primary objective held by Dr. Koop in holding his drinking and driving workshop, we strongly oppose the methods that the workshop has proposed. And we appreciate the opportunity for the first time today to have the industry say something about it.

There is a distinction between the responsible consumption of alcohol and alcohol abuse, a distinction which the participants in that workshop chose not to recognize. Instead, they view all alcohol consumption as risk taking, a socially unacceptable practice that would have been news to home brewers like George Washington and Thomas Jefferson. By refusing to make that distinction, the workshop recommendations fail to identify truly workable solutions to the effort against drunk driving.

These recommendations are a drastic series of proposals that substantially increase Government intrusion into the lives of private citizens without making the slightest impact on the problem of alcohol abuse. The Presidential Commission on Drunk Driving was established during the Reagan Administration and continues today as the National Commission Against Drunk Driving. It realized that the problem is one of drunken driving, not all drinking, and by focusing its attention on the real problem has managed to unite significant forces, ideas and funds resolving this issue.

The brewing industry supports many of the same system-based approaches to this issue as the National Commission, especially when it comes to tougher law enforcement, enlightened sentencing, and expanded anti-abuse educational efforts.

Dr. Koop's workshop recommendations on the other hand would drastically increase the excise tax on beer. Those recommendations would also infringe on the commercial free speech regarding product advertising and promotion despite overwhelming evidence that this would have no effect on abuse. Mr. Chairman, however well intentioned, these kinds of proposals are counterproductive, and they would have no real effect on the alcohol abuse problem.

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[1] See p. 154 for Mr. Sanders' prepared statement.

First, consider the proposal on taxes. Dr. Koop has called for a 10-fold increase in the Federal excise tax, which would add more than $7 in new excise taxes on every case of beer. A family who drinks one six-pack per week would face about $100 per year tax increase. Surely, no one can seriously believe that a chronic abuser is going to quit drinking because the price went up. And underage drinkers, people who are already risking serious trouble with the law, loss of driving privileges and parental confrontation, are not going to stop because of price.

The only ones who are going to cut back on their drinking are the average, responsible adults who are not hurting anyone, and since two-thirds of all beer is purchased by households with incomes of less than $35,000 per year, the burden of such a tax increase would fall most heavily on the middle and low income consumers. How will this help abuse?

Second, Dr. Koop has proposed elimination of beer sponsorship of sports and special events, which the Surgeon General contends cause underage people to drink. He also has suggested that one anti-alcohol commercial be used to balance each beer advertisement on television. These proposals rest on the assumption that current beer advertising and promotions contribute to alcohol abuse and underage drinking.

Yet virtually every scientific study ever completed has shown that advertising does not cause a person to begin drinking or cause someone to drink more than he ordinarily would. The sole purpose of the advertising is to persuade existing beer drinkers to choose one brand over another. The Federal Trade Commission examined more than 60 studies 4 years ago and concluded advertising does not cause alcohol abuse or underage drinking. According to the FTC report, there is, "no reliable basis to conclude that alcohol advertising significantly affects consumption, let alone abuse."

Similarly, the Congressional Office of Technology Assessment concluded in 1983 that peer pressure and family practices are the important elements in a young person's decision about whether to drink or not, not advertising. By the same token, there is no evidence that sponsorship of sports or other special events contributes to underage drinking.

We sponsor sporting events because adult beer drinkers tend to like sports. We sponsor musical concerts in recognition of the fact that there are 63 million Americans from 21 to their mid-30s who were raised on the popular music from organizations like the Beach Boys to Neil Diamond. And they still like this music. When sponsoring concerts, brewing companies consciously pick musical groups that appeal to the over-21 contemporary adults. They do not target young people. Obviously a young person may see a beer sign at a baseball stadium and in a free society we cannot prevent all teenagers from attending a Beach Boys or other rock-and-roll musical concert. We also recognize that we have a special obligation to ensure that none of our marketing activities contribute to the underage drinking and abuse.

But the evidence continues to show that beer advertising and promotions are not involved in abuse or underage drinking. A third proposal recommended by Dr. Koop is that the current .10 legal standard be lower. This is an issue that States must address. We do not recommend the level other than to point out that the average blood alcohol contents of those arrested for drunk driving is .17, considerably above the current .10 standard.

Improved enforcement of existing standards might have more impact on drunk driving than a new blood level. Finally, the Surgeon General's workshop has suggested new educational programs that compare beer to drugs, to illegal drugs. Certainly, anything that has an effect on the body from caffeine to aspirin could be termed a drug by some definitions, but to say that beer is the same as crack or heroin is both wrong, because it falsely depicts alcohol as being intrinsically dangerous and damaging because it hurts educational efforts to draw a clear distinction between moderate, responsible consumption and abuse.

Do we want our young people to believe that crack or cocaine are no more dangerous than alcohol beverages? Do we want them to believe that their parents, who should be setting an example for them, are doing something wrong because they enjoy a glass of beer or wine? As Dr. Roger Volger and Dr. Wayne Barts, two experts on underage drinking, concluded in the book A Better Way to Drink, "One-sided presentations of any social problem, whether involving sex, drugs, tobacco, or alcohol, tend to be self-defeating because they turn off young people who can see through the basic dishonesty."

We in the brewing industry believe more can be done to continue the progress which has been made in combatting drunk driving. Brewers continue to be heavily involved in public education campaigns to promote responsible consumption such as "Know When to Say When," sponsored by Anheuser-Busch; "Alcohol Information from Miller," from Miller Brewing Company; "Alcohol, Drugs, Driving and You," sponsored by the Adolph Coors Company; and "Friends Don't Let Friends Drive Drunk," sponsored by the Licensed Beverage Information Council. Stroh Brewing Company and the National Beer Wholesalers Association have supported curricula for primary and secondary schools.

A number of our members continue to sponsor national advertising to reinforce the moderation message. We are involved in sponsoring programs to provide training to servers of alcohol, in the sponsorship of designated driver programs, in employee assistance programs, and in other activities to reduce the incidence of drunk driving. We support financially the establishment of Students Against Drunk Driving chapters in high schools.

We intend to be a part of the solution to this problem, and I think no industry has worked harder to address the abuse of its product than our industry. The key, however, is to continue to make a distinction between alcohol abuse and responsible consumption. This responsible consumption of malt beverages has been a part of our society for thousands of years.

This Government should never again cross the line and begin to promote the idea that all alcoholic beverages are intrinsically dangerous for in doing that our efforts to encourage moderation and education will be seriously derailed. These kind of anti-alcohol proposals would reduce the number of people who drink responsibly without reducing the number of abusers, and that would hurt us all. Thank you very much, Mr. Chairman.

Chairman **GLENN**. Thank you.

Mr. Metz, who is Executive Vice President, Wine and Spirits Wholesalers of America.

TESTIMONY OF DOUGLAS W. METZ, EXECUTIVE VICE PRESIDENT, WINE AND SPIRITS WHOLESALERS OF AMERICA, INC.[1]

Mr. **METZ**. Thank you, Mr. Chairman. We appreciate this opportunity to testify and want to commend in particular you, and your leadership, and that of your colleagues on this Committee, and your staff for again focusing national attention on the tragedy of drunk driving. As my colleague, Mr. Sanders has indicated, we regard ourselves as part of the solution to this problem and have been since the repeal of prohibition. Long before the term "social responsibility" became fashionable in the lexicons of academia and in Washington with respect to corporate social responsibility, our industry has urged moderation, restraint and temperate use of its products as enjoined by President Roosevelt at the time of repeal.

I will not recount these for you. They are a part of my testimony. My colleagues will amply supply this for the record. These efforts have been commended by the President and the Secretaries of HHS, Treasury and Department of Transportation. We regard these initiatives of our association and our industry, as designed to fit as pieces in a larger mosaic reflecting, as our current President has put it, a thousand points of light.

In our view, the focus of these lights should be an integrated systems approach, as recommended in the 1983 final report of the Presidential Commission on Drunk Driving. This commission was comprised of representatives from groups more diverse than participants in the Surgeon General's Workshop on Drunk Driving. The President also appointed members of the wine, distilled spirits and beer industries, the insurance industry and other business leaders.

Our association believes that the commission's report recommends to us and to you as a Committee the best methodology to combat the tragedy of drunk driving. Its report called for State and local officials and leaders of public and private groups to adopt a systematic view of the problem, a view which recognizes the interrelationships between legal, health, public information, educational and technological responses to the problem.

I think the Surgeon General this morning evidenced recognition of the need for a systematic approach. It must include all segments of society. The report warned against a piecemeal response, particularly those suggesting that the problem can be easily solved by fiats or mandates, whether from Government, schools or parents.

Progress has been made in the last 5 years, namely impressive reductions in alcohol-related fatalities and significant reductions in highway fatalities involving young teenage drivers. The National

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[1] See p. 159 for Mr. Metz' prepared statement.

Highway Traffic Safety Administration has stated that never before in the history of this Nation had such reductions been recorded. But this is not enough. And again, we commend your Committee and the work of the Surgeon General in renewing public interest in more substantial and effective progress on this problem.

And we will continue to work with others in and outside our industry to sustain and accelerate the systems approach momentum in reducing the instances of drunk and impaired driving.

We welcome the renewed interest that the report of the Surgeon General's Workshop on Drunk Driving has generated in this complex problem. The report provides several instructive and helpful proposals which this Committee and others should consider as they prepare their recommendations on ways that this problem can be more effectively addressed.

We will give top priority to further careful study and assessment of the workshop's report. We commend many but not all of the proposals in sections dealing with epidemiology and data management, education, judicial and administrative processes, law enforcement, transportation and alcohol service policies, injury control, youth and other special populations and treatment.

To the extent that the workshop's recommendations in these areas overlap the comprehensive review now being made by the National Commission Against Drunk Driving, we urge that their implementation await submission of the commission's landmark report. There are several parts of the workshop's report with which we have grave problems. These relate to the workshop's recommendations on advertising and marketing and on price availability.

Experience shows that they have no causal relationship with drunk driving—the Surgeon General has conceded that with respect to advertising—and entail consequences which are unnecessarily punitive to responsible consumers. We urge, therefore, that the Committee specifically reject them as policy to solve drunk driving or any other problem of alcohol abuse.

We believe that implementation of the recommendations on pricing, availability, and advertising would be a grave mistake. For example, raising the price of alcohol through increased excise taxes is regressive to consumers, discriminatory to a legal industry, and ineffective in curbing alcohol abuse.

Reducing the availability of alcohol punishes the law abiding majority on the assumption that a law breaking minority will find this as an obstacle to over-consumption. Restricting advertising and marketing denies the consumer ready access to information on the content, quality, characteristics, and origin of wine, spirits and malt beverages on the dubious assumption that the abusers will drink less.

Pricing, availability and advertising restrictions rest on a controversial theory which has yet to find solid, scientific support. Whenever it has been applied, the control of availability theory has failed in practice. The Soviet Union has a total monopoly on the production, sale and distribution of alcohol beverages. It has tried the prescription of higher prices, reduced access and availability, and a prohibition on advertising. The result is a self-confessed abysmal failure.

The Soviet Union is still among the world's leaders in problems of alcohol abuse and alcoholism. And I urge the Committee consider the differences between East Germany and West Germany, namely the problems that East Germany has had following a similar approach versus some of the successes achieved in West Germany. Social history and medical science tell us that the chronic abuser of alcohol will not be deterred by higher prices or greater obstacles to obtaining the product. The vast majority of consumers of alcohol beverages drink responsibly to their enjoyment and to their good health.

Of greatest concern is the workshop's recommendations for increased Federal excise taxes on alcohol beverages and the amounts proposed by the workshop's report on top of rapidly escalating State excise taxes on the same products. This would effectively make the majority of our industry's products prohibitively expensive for most Americans.

Preliminary estimates of initial demand fall-off range from 50 to 70 percent. The consequences would be similar to developments in the Soviet Union and in the United States during and immediately after Prohibition. As occurred in the Soviet Union, the production of elicit and impure beverage alcohol in the U.S. would skyrocket, and revenues related to Federal Government operations would decline, adding to an already alarming Federal deficits.

The impact on industry would be devastating, effectively destroying a legal and tightly regulated industry which provides some form of livelihood for a million Americans. The result would be quasi-prohibition, perhaps not as severe as the first, but with many of its grave consequences for law enforcement, public health, and revenue protection.

The vast majority of Americans will consume alcohol beverages responsibly. The small minority who do not are undeterred by higher taxes. The folly of using tax increases to cure social ills like abusive consumption and drunk and impaired driving has been documented. The term "sin tax," Mr. Chairman, is a cruel misnomer. The saints are punished and the sinners go undeterred. They just pay more or find substitutes to satisfy their needs.

In conclusion, Mr. Chairman, as our Nation proceeds to write the next successful chapter in the war against drunk driving, our association proposes the adoption of primary objectives recommended by the National Highway Traffic Safety Administration. These objectives include: first, deterring drinking drivers who have not been caught; second, reducing the impaired driving recidivism of drivers who have already been arrested and processed through our criminal justice and/or administrative sanctioning and rehabilitation processes; and, third, preventing drinking and driving by such means as public information, education, more responsible serving and hosting practices, intervention by friends, designated driver programs, safe ride programs, and preventing the sale of alcohol beverages to minors.

In continuing to pursue solutions to drunk driving, we believe that education should rank highest among the methodologies employed and commend to the Committee's consideration some of the writings of Dr. Robert Marshall, a leading specialist in traffic safety.

I would like to conclude by commending the Surgeon General's injunction that we use observation, common sense and logic in considering some of these recommendations in this complex problem. We view many of the recommendations of the report as meriting this Committee's consideration. We view some, and I have indicated what they are, as certainly violating observation, common sense and logic. And we commend the Surgeon General and this Committee. We are prepared to enter into a coalition as we have in the past with other groups in the search for effective solutions to this problem. Thank you.

Chairman GLENN. Thank you, Mr. Metz.

Dr. Beauchamp.

TESTIMONY OF DAN E. BEAUCHAMP, PH.D., AMERICAN PUBLIC HEALTH ASSOCIATION [1]

Dr. BEAUCHAMP. Thank you, Mr. Chairman. I want to confine my remarks to two of the recommendations of the Surgeon General, two classes of recommendations, those concerning pricing and marketing. First, pricing. Alcohol taxes, despite what we have heard this morning save lives. Alcohol taxes save young lives. Alcohol taxes will discourage the consumption of the major drug used by youth, beer. Even modest increases in alcohol taxes promise impressive declines in the use of alcoholic beverages by young people.

I must say that we have heard, as I have heard over the years many references to the Soviet Union. The first time I heard that, I could not help myself. I just blurted out and said, if I lived in the Soviet Union, I would drink everything I could get my hands on. [Laughter.] I believe that the continual comparisons between these reasonable and modest recommendations with the Soviet Union is not advancing this discussion very much. Beer is taxed very much more lightly than distilled spirits. This is because of the erroneous conclusion that the ethanol in beer is less dangerous than the ethanol in distilled spirits. This coupled with the fact that Congress has not raised the excise tax on alcoholic beverages except for a modest increase in distilled spirits a few years ago, the beer tax has not been raised since the Korean War.

Because of this beer is now roughly the same price as a 6-pack of soft drinks, a very different situation than when I was a young man, which was many years ago during the Korean War. I do not think cheap beer is good public policy, and the American Public Health Association who I represent today strongly supports reasonable and prudent increases in the price on beer making the tax equal to the ethanol content for the beverage.

We also join with the Surgeon General in his recommendation that these taxes, excise taxes, which are flat taxes, be indexed to the rate of inflation. Let me turn to the second issue that I would like to address this morning, which is advertising and promotional issues. I noticed earlier in the opening remarks, Senator Roth asked the question what has been the experience with cigarette advertising and with cigarettes.

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[1] See p. 174 for Dr. Beauchamp's prepared statement.

He said, I believe, that we have a very similar situation here, cigarettes and alcohol. And I wish to join with the Senator on that point. The fact of the matter is the issue around advertising, whether it is for equal time or whether it is for an advertising ban or what have you, or for the voluntary approach that the Surgeon General has suggested might occur.

The fact of the matter is the question never has been solely what does advertising cause people to do. The real question is what would happen if we had more information about the health consequences of alcoholic beverages including that of beer, and if the primary way we receive information about these products is through the medium of advertising, and if this is a very lucrative source for funding for the broadcasters of this country, we must in the interest of good sound public health do something about this matter and strike a better balance for the public health.

So I think that the American Public Health Association would like to go on record as supporting the thesis that Congress should pass laws balancing information about alcoholic beverages by requiring broadcast alcohol advertisements to be matched by an equal number of messages about the health effects and risks of alcohol use

I think in this case we have some very good evidence that this would have a salutary effect on the health of America's youth and upon the health of us all. In 1964, the Surgeon General of the United States issued the first major health warning about cigarette smoking and since that time there have been a number of signal events in the United States around either the advertising of cigarette products or upon the requirement between 1968 and 1970 that there would be equal time for advertising these products.

Kenneth Warner, a leading scholar and a former editor of the Smoking and Health volume, under Surgeon General Koop, has conducted over the years a series of very impressive studies of what happened during these enormous public discussions and controversies that have erupted around cigarettes. And what we have seen is a decline of cigarette smoking from levels of 50 percent among American adults to the present time where we know it is right at 25 percent of American adults.

To public health workers this is an extraordinary change in public behavior, and this has been brought primarily through the enormous attention that is devoted in the media to this particular issue and to the vehicle of requiring first equal time or removing advertising entirely.

But we are not here today to ask that advertising for beer and wine be removed entirely for young people. We are here to urge that Congress give serious consideration to an equal time provision as a very prudent and reasonable step in improving the health of American young people. We believe in the American Public Health Association that you cannot distinguish drugs so easily. That if this Nation is committed to the proposition that there should be a war against drugs, we must take aggressive action against the drug for which young people are far more likely to die of, which is beer.

What about the argument that advertising's chief purpose is to promote brand loyalty. In the first place, I think we hear so much about this proposition because it is almost impossible to disprove.

But the point is, as I have said earlier, it is not really whether that is their intention, nor is it really whether that intention is misguided and young people hear it, the question is what would happen when young people receive much more information than they do now about the harmful effects of advertising.

An earlier witness at this table in this panel said one sided presentations are not in the interest of the public health or doing something about this problem. I could not agree more. It will probably be the only thing I will agree on with this particular witness this morning. One-sided presentations are exactly what we are talking about with the enormous barrage of advertising that we see around beer.

And we think that as a prudent public policy measure balancing that with an alternative message is in the public interest. I think that we should remember that in the case of advertising what we are talking about here is not an infringement of constitutional liberties. I believe that we should be very careful and scrupulous about the constitutional guarantees for any interest including a commercial interest.

And what my distinguished panelists are referring to when they talk about constitutional safeguards was the rise in the 1970's of a doctrine called "commercial speech." This was a doctrine adopted under the liberal wing of the Supreme Court that defended the right of advertisers in the interest of further discussion in a democracy, the right to advertise with minimal restrictions by State legislatures.

This doctrine was elaborated throughout the 1970's, and I think that rightfully so, the industry saw some hope in that doctrine for protecting itself from regulations against advertising that it felt were unwarranted. But the fact of the matter is the court was never asked until the *Posadas* case 2 or 3 years ago about the clash between advertising that affects the public health or restrictions on advertising that might promote the public health and the issue of commercial advertising.

In the *Posadas* case, which was a case in which Puerto Rico restricted casino gambling, the court struck down a lower court and argued that this was not an instance of commercially protected, or protected commercial speech, and that even the dissenters to the opinion, in this case Justice Brennan who has helped craft the notion of a commercial speech, suggested that in the case of risks like smoking and other health hazards that the commercial speech doctrine might not apply. So I think that we have a red herring here in terms of the commercial speech doctrine.

What we are asking for is not less speech. We are asking for more speech for Americans, and we want to fold and list on the side of public health, public discussion and public opinion which is already showing itself with declining alcohol consumption rates, declining beer sales, declining rates of drinking and driving which I think we should all take hope from. Thank you.

Chairman GLENN. Thank you. Thank you all, gentlemen.

Just to start back, Mr. Fritts, you mentioned earlier you have the 300 pages there. I cannot guarantee we can publish all of that. If you can give us—I am happy to accept all of that on behalf of the Committee for our information here, and we will go through and pick out appropriate parts, if you would like to summarize that, then maybe we would have a better chance. But the Committee does have limited funds for publication so I cannot guarantee that we can automatically use taxpayer money to publish some 300 pages there. But we will be glad to make a summary of it if you wanted to, or you can make the summary of it and then we will see what we can do with that, if you would like.

Mr. FRITTS. Thank you, Senator.

Chairman GLENN. I am happy to accept the whole thing for our information.

Mr. FRITTS. We have provided this documentation to each member of the Committee staff.

Chairman GLENN. All right, fine.

Mr. FRITTS. As I mentioned earlier, this documentation was provided to the Surgeon General's Workshop for their review and study.

Chairman GLENN. Fine. To come back to Mr. Beauchamp's point, his first point he made on taxes, gentlemen, I know no one likes an increase in taxes in their particular industry, but, you know, basically taxes on wine and beer have not been changed since 1951, as he pointed out, a period of 38 years. And let us just approach it on a tax equity ground, quite apart from drunk driving or anything else.

Do you not agree that after that length of time when everything else has gone up, taxes have been increased on everything under the sun, you gentlemen have had a remarkable period here that you ought to be grateful for. Are you still going to oppose any increase in taxes?

Mr. METZ. Mr. Chairman, we approach this not only on a tax equity ground but on tax policy ground. It has been our contention that——

Chairman GLENN. Well, tell me about tax equity then when you have not had an increase for 38 years.

Mr. METZ. Well, we feel that excise taxes are just bad Federal tax policy.

Chairman GLENN. Oh, you oppose the whole idea of taxation, then, period? That is the idea. [Laughter.]

Mr. METZ. Our industry——

Chairman GLENN. Okay.

Mr. METZ. Our industry has faced several hundred percent increases in State excise taxes and far more dependent for revenues from our industry are the State Governments than the Federal Government. We believe as a matter of tax policy that all excise taxes ought to be phased out.

Chairman GLENN. Okay. Mr. Sanders.

Mr. SANDERS. Yes, Mr. Chairman, it is true that the State taxes have gone up from something less than $200 million in 1951 to over $1.5 billion in 1987. So we get it at both ends, the Federal and the State.

Chairman GLENN. You have been fortunate at the Federal end. Let us put it that way.

Mr. SANDERS. We have got to be thankful for something.

Chairman **Glenn**. Yes. Is it or is it not the case that marketers for beer and wine would like to see the consumption of their products increased?

Mr. **Sanders**. I think, Mr. Chairman, that everyone that markets a product would like to see their sales increased. I would like to make a comment, however, I want to be clearly understood that this industry does not want alcohol abusers for customers. We will not accept alcohol abusers for customers. We want to make it clear that through public education efforts that our product should be enjoyed responsibly and moderately. There was a comment earlier about the fact that because taxes have not been increased in beer, that is why today beer is the equivalent price almost of soft drinks. I might remind those people that soft drinks do not carry the tax burden that we do. And probably few industries have increased their productivity, the methods of canning and bottling as much as has the beer industry.

As a matter of fact, our prices have not gone up as much as the cost of living over that period of time. So I think we have an efficient industry, and perhaps that says something about the soft drinks' ability to keep raising their prices up to ours.

Chairman **Glenn**. As with any other product when you are advertising, you hope the consumption of the product goes up. In this particular case, where does that consumption become irresponsible for the public? Have you tried to determine that cut-off level?

Mr. **Sanders**. You know we have the point of view, Mr. Chairman, that we would like people to enjoy our product if they choose to drink. We do not think everyone should drink. And any of those who choose not to, and some people who physically should not, certainly should not drink. It is true that the total consumption is going down, and that is an interesting point because the amount of advertising has gone up. If they were a co-relationship you would think consumption would have gone up.

But again, our people are competing for market share. It is a very competitive industry. We try, each one of those companies tries to increase its market share. Some succeed and some fall backwards and cannot do it.

Chairman **Glenn**. The statistics we have for the Committee here that have been—I do not know what the source of them were—but the figure I was given was that about 10 percent of the drinkers consume about 50 percent of the product. Would that agree with your figures?

Mr. **Sanders**. I really do not know where those figures come from. Certainly, we know that some people do not drink at all. Some drink very lightly and some drink more. But I cannot tell you what percentage consumes 50 percent of the product. I do not know that. I do not know any study that indicates that.

Chairman **Glenn**. Mr. Fritts, can you tell me what percent of the revenue, overall revenue in the broadcasting industry, comes from alcoholic beverage advertising?

Mr. **Fritts**. Mr. Chairman, it is somewhere in the neighborhood of $890 million for both radio and for television. This figure is from a combined revenue of nearly $30 billion for the industry between radio and television.

Chairman **Glenn**. Okay. My time is up. I will follow up on that later. Senator Kohl.

Senator **Kohl**. Thank you, Mr. Chairman. Mr. Sanders, what do you think the general public thinks about beer advertising and marketing, and have you done any studies on that?

Mr. **Sanders**. Yes. Our people in our industry are very close, of course, to the response they get in the general public from beer advertisements. Of course, there is a wide range of tastes, what people like and what people do not like in any kind of advertisement, whether it is our product or others. I might go on to say that a lot of the criticisms leveled recently about beer advertisements showing attractive people doing attractive things is the way that most all products are sold on television. That is the technique of dealing in those areas. But we get a lot of feedback that some of the best programs are the beer advertisements.

And some of the best produced and the funniest, and people seem to identify with them. As you know, one of the problems in our very competitive industry is introducing new products. Americans are very eager to try, have new kinds of beer, so that requires more kinds of ads dealing with new products.

Senator **Kohl**. Just a follow up on that answer of yours. The Surgeon General report focused on the glamorization of drinking by the industry through its advertisements and by the television industry through its programming. Do you feel that this is a problem, or do you feel that the industry needs to do anything about this glamorization of drinking?

Mr. **Sanders**. Senator, we have a code, an advertising code in our industry. We have certain no-no's, certain things that are prohibited that we encourage to be prohibited. We cannot, of course, enforce it with penalties because that is an anti-trust violation. But we certainly feel that we want to continue to show, as other products do, people in pleasant surroundings in responsible surroundings consuming our product in an enjoyable way.

It is not different than the advertisement for automobiles or clothes or anything else. They do show attractive people doing interesting things. Otherwise, it would be a pretty dull program.

Senator **Kohl**. Okay.

Mr. **Fritts**. Senator, if I could follow up on that momentarily.

Senator **Kohl**. Mr. Fritts.

Mr. **Fritts**. I think if we look back at what was on television 7 to 10 years ago and review that against what is on television today in terms of social drinking and the story lines that appear, there is a great sensitivity among the Hollywood community, the networks and individual broadcasters about the irresponsible portrayal of alcohol use in story lines of programming. I think there is a project which is known as the Harvard Project that is working with the Hollywood community in producing story lines which have the effect of saying in some programs, you know, we really should have a designated driver if we are going to drink.

So there has certainly been a change of attitude over the past few years from the production community and from broadcasters moving in that direction.

Senator **Kohl**. Okay. You said it many times this morning, but I just want to summarize in my own mind what I think I am hearing you say. You want to do everything you can to encourage responsible drinking, but responsible drinking only. Is that the goal of your industry?

Mr. **Sanders**. That is correct, sir. And we are finding, I think, more and more methods of doing that. We certainly do not feel we have solved all the problems, nor have we avoided all the mistakes. But I think you will recognize that our industry has gone far out to attack what we know is an abuse of our products, and we have these various slogans that I have already talked about that caution people not to abuse our product. I know of no other industry that has done that much.

Senator **Kohl**. Okay. Dr. Beauchamp.

Dr. **Beauchamp**. Yes, sir, thank you.

Senator **Kohl**. The Federal Government is currently spending a great deal of money on alcohol abuse prevention programs and efforts to curb drunk driving as well as on treating the physical effects of alcohol abuse. In your opinion, are these Federal dollars being spent wisely or are there ways in which we could better spend the Federal dollar?

Dr. **Beauchamp**. I think that the prevention efforts that we have at the Federal level, Senator, are, as was said earlier, not funded adequately enough. But I think that we have learned a great deal in the last 15 or 20 years, and that we are making good progress in terms of the content and the understanding of the structure of a good sound prevention program.

I think this has been a hopeful side of Federal policy in the last 20 years since the establishment of the National Institute on Alcohol Abuse and Alcoholism, and since the founding a little bit earlier of NHTSA. Both of these organizations have cooperated, and I think their prevention efforts, as always, could be expanded, but I think we are on the right target. We have good solid research.

A lot of the things that I have said today are the result of the sponsorship of these governmental agencies. So apart from the policy recommendations that the American Public Health Association has endorsed in the Surgeon General's report, I think that our current programs are good, sound and should be expanded.

Senator **Kohl**. Do you think this country would be well served if we sold a half or a quarter as much beer as we are selling today?

Dr. **Beauchamp**. I think that the country—let me answer that the way in which I have often heard elected officials answer questions like that. [Laughter.]

And I mean that in the best sense. I would say a quarter of the alcoholic beverage that we serve today means that we would be at the level of the depth of Prohibition. So I think that if you are asking me would I be in favor of Prohibition again, the answer is no. Half of the alcoholic beverages that are being served today, I think is an unrealistic objective for any reasonable prudent citizen of this country. It would require draconian measures. It would be sort of like ringing a doorbell with a cannon.

Do I support reasonable, prudent declines in alcoholic beverages because I think that will produce impressive public health yields, yes. Where this will end up, if this trend goes, I do not know. I do not foresee the sort of drastic declines that your question implies.

Senator **Kohl**. Thank you. Thank you, Mr. Chairman.

Chairman **Glenn**. Mr. Sanders, you indicated a moment ago that you, like any other advertiser of any product, would like to see increased consumption of your product. But at the same time you say that the purpose of advertising is not to increase consumption. It is just to switch from one brand to the other, and that is the purpose of all the things that you put on with Mr. Fritts over here. Why do you think it is effective in persuading consumers to switch from one brand to another?

Mr. **Sanders**. Well, the evidence is——

Chairman **Glenn**. And that is the purpose of advertising; is that right, just to switch?

Mr. **Sanders**. Well, Mr. Chairman, that is exactly what is happening. There has been a great shift in the market share of various brewers over the last 10 to 20 years. As a matter of fact, they are not——

Chairman **Glenn**. But consumption has gone up the same time.

Mr. **Sanders**. No. Consumption has not gone up in the last few years, sir. It has been level and declining, level, up a half a percent, down 2 or 3 years ago 2 percent. That is in the recent past.

Chairman **Glenn**. Is that true for beer now?

Mr. **Sanders**. Yes, sir.

Chairman **Glenn**. I think hard liquor and wine—it is my understanding that those consumptions had gone down or at least leveled off, but beer consumption has not increased at all?

Mr. **Sanders**. I think in 1988, the increase was about 0.4 of a percent. In 1987, it was level. And I believe in 1986 it was off by 2 percent. Those are round figures.

Chairman **Glenn**. Going on back, what has happened over the last 10 to 15 years while there has been heavy advertising? Has production not increased?

Mr. **Sanders**. It has not been very much, if any of an increase, yet the advertising has gone up dramatically. And people have been eliminated from the market. Brewers have not only lost market share, but have been absorbed.

Chairman **Glenn**. But you would submit still that when your advertising is so attractive it will make people switch from one brand to another, it is still not attractive enough that it would encourage people to start, to want to experience this?

Mr. **Sanders**. There does not seem to be a relationship, and I have to again—Mr. Chairman, I am not giving you my opinions. I am citing the studies that the Federal Trade Commission reviewed, over 60 different studies that concluded this, and I am only quoting them. I am not an expert in that. I did not do the research myself. And so I am citing those studies.

Chairman **Glenn**. You mentioned the code that your industry tries to adhere to. Do you try and review the advertising before it has gone out? Do you as an institute try and review the proposals, or do the individual companies come to you for advice in that area?

Mr. **Sanders**. No. The companies all have a copy of the code. I think perhaps, as you know, there is quite a study on how far you can go in enforcing sanctions on advertising and through advertising codes. You get into trouble with anti-trust violations. It has to be a voluntary kind of a situation. That is what we have. We sometimes find one of the brewers will complain about another person's advertising. We review it. We talk to the brewer and try to persuade them. And that happened recently.

As a matter of fact, someone was citing, I think the Surgeon General, the spring break advertisements by one brewer. That was clearly in bad taste. It was clearly a violation of the code and that brewer withdrew and apologized for that advertisement and said we blew it. So it does work.

Chairman **Glenn**. Well, I have a copy of that right here.

Mr. **Sanders**. Yes.

Chairman **Glenn**. That is what I was going to bring up next. You saw where I was going with my line of questioning obviously, and that is fine. This is solely increased consumption. I do not see how it could be anything else, and it is aimed at a population about three-fourths or at least two-thirds of whom would be under 21. Now does the industry, how do they look at that? What did the industry do? What did you do?

Mr. **Sanders**. Well——

Chairman **Glenn**. That thing has them advocating you have a Miller's here when you get up, which is at 9 o'clock. Well, you went to bed last night because you crashed from—it says you crashed from sunrise to 9 o'clock. So that gives you 3 hours of sleep, I suppose. Then you start up, and then you at 9:25 you sit up, at 9:26 you fall back asleep, 9:45 you crawl out of bed, 9:55 you stand up, you go on and on. At each point along the way here, every couple of hours, you have another Miller.

And then you wind up down here at the bottom of this thing crashing and the thing was so badly done that even the students objected on the campuses in the 100 newspapers which was put in as an insert. And this was even editorialized against. Now what does the industry do to clean this kind of thing up? This obviously was aimed specifically to get the kids to drink more beer, period. There was not anything else to do with it that I can see. I am sure you have seen this and have read it closely.

Mr. **Sanders**. I saw it probably within a week after it came out. I called the brewer. The brewer had already been alerted. Had already told them to stop the publication and apologized to the colleges. They clearly said that is distasteful.

Chairman **Glenn**. Does this not make a mockery out of your code and a mockery out of the idea that we are only involved in switching?

Mr. **Sanders**. Well, the only thing it underscores is we do not have any kind of a pre-screening of this because we really cannot do that legally.

Chairman **Glenn**. But you need that. Maybe you need prescreening.

Mr. **Sanders**. Well, there is quite a study on problems to do with anti-trust if you have some kind of screening and penalty involved. But that clearly was a bad shot, but I think at least the solution was right. They apologized and the person who was responsible for that is no longer at the brewery of course.

Chairman **Glenn**. Who is he working for now?

Mr. **Sanders**. It is who is she is working for now.

Chairman **Glenn**. She.

Mr. **Sanders**. I do not know, but I imagine some place in another occupation, I would guess. But they said we messed up and at least that is forthright in saying we blew it and we are sorry.

Mr. **Fritts**. Senator, if I could follow up on the code matter.

Chairman **Glenn**. Mr. Fritts, you want to respond to that?

Mr. **Fritts**. The broadcasters had a code of good practices which was voluntary. It was struck down for anti-trust purposes back in the late 1970's. Consequently every broadcast station, every network, now have their own standards and practices review of advertisements before they are placed on the air. And I think that that system, although not totally foolproof, is certainly working effectively.

Senator **Kohl**. To all the industry representatives, would some sort of anti-trust exemption for the alcohol industry be helpful to allow you all to control the type of advertising that hits the air or in print or on the radio?

Mr. **Sanders**. Well, that is an interesting idea, Senator. That has not been proposed before. I certainly would take that under consideration, but as Mr. Fritts has pointed out, we are really pretty much hamstrung by the anti-trust regulations to put some real teeth into any kind of an advertising code. It has to be a voluntary situation. We have to catch it after the fact.

Senator **Kohl**. Yes. Mr. Metz, do you have any comment on that?

Mr. **Metz**. No, I do not since our people really do direct advertising.

Senator **Kohl**. Mr. Beauchamp, what are the ways in which you would like to see us go to decrease the consumption of beer? What should we do in this country?

Dr. **Beauchamp**. Well, I think the most prudent thing and the first thing we should do, Senator, is to enact reasonable and prudent increases in the tax on beer.

Senator **Kohl**. Taxes?

Dr. **Beauchamp**. I think the beautiful thing about this tax is not only does it generate much needed revenues at this time, but for the vast majority of people who do not drink very much who are beer drinkers, they would hardly notice it since as Senator Glenn pointed out, 10 to 20 percent of the beer drinkers drink 80 percent of the beer. And this is their figures which they often discuss in Advertising Age.

This tax would affect those heavy consumers of beer alone, which is, I think, appropriate. The Surgeon General calls it a user's fee. I think that controls over the promotional activities that we discussed just a moment ago in some more balance in terms of information that is provided through the electronic media are badly needed.

Young people particularly receive a lot of their information about styles, fashions, fads, what have you from these media, and I think that we should balance that flow of information with concerns about their health, which I think they will pay attention to. I think the good thing about the tax increase that I mentioned is that it will affect drinking and driving which is a very violent death as we all know, and it affects disproportionately young people, and I know I have said before, and I probably should quit harping on this point, but I work in New York State with several other commissioners on the larger problem of drug abuse, and I am struck by the fact that time and time again far more young people die of drinking and driving than they will of cocaine abuse and other problems.

And I think we can live in this society with these products. We can continue to make them legal. We can just simply make them more expensive and less talked about through the advertising medium, and I think we will all feel like we are better citizens for that.

Senator KOHL. Thank you. Mr. Chairman.

Chairman GLENN. Thank you. Mr. Fritts, you get a large chunk of revenue, nearly a billion a year, from the alcoholic beverage industry, and so I can understand why any restrictions on their advertising would affect you drastically, but you termed the Surgeon General's Workshop on Drunk Driving—I believe it is a quote—a total abuse of the policy setting process. Could you explain why you feel that way?

Mr. FRITTS. A billion dollars is certainly substantial amount of money, I would agree. That represents about 3 percent of the broadcast industry revenues, cumulative between radio and television. Maybe I should respond to you in this way, Senator. We were invited to participate in the Surgeon General's Workshop upon their terms and conditions. This meant that the advertising and marketing panel would have one representative from the advertising and marketing industry versus 6 or 8 people whose views were already known to be opposed to advertising and marketing practices under the current rules.

We felt that under those circumstances, the deck was stacked from the very beginning. We had some sense that that was the way it was going to be. Up until the very last second, we were told it would be closed to the public. We were told it would be closed to the press. It was not made clear to us as to whether or not we would be able to participate on the panel in a functional capacity—which we felt like we were best able to participate—or if, in fact, we would just be an attendee in the audience as many people were being asked to do.

I think quite candidly the Surgeon General was ill-served by some staff work well in advance of this particular meeting.

Chairman GLENN. Previous statements of the broadcasters have taken great pride, and I am happy you do take pride in providing equal time to some extent in public service broadcasting, and you say that you have up to a billion a year, I believe, devoted to that purpose. And that certainly is appreciated, but do you not feel that your advertising induces young people to start drinking? Do you feel that it just affects brand switching from one brand to another? The alcohol commercials have all these attractive people and former athletes and all; you do not think portraying alcohol in an attractive setting that does not contribute to alcohol problems, which may result in drunk driving and deaths on the highway?

Mr. FRITTS. I will answer it in two ways, Senator. One, in our response there is a summary which is a compilation of all the scientific evidence surrounding this issue, which indicates that there is no causal relationship between the advertising of the products and the abuse of those products. Number 2, from a common sense approach, I had a discussion with a United States Senator about 2 years ago. He said to me, Mr. Fritts, I am a teetotaler. I have four children who have grown up in this communications age who have watched every television show that has ever been on the air, and they are all teetotalers. Consequently I do not think that you are going to influence anybody in our family with your advertising of these products.

I think that that is just one example of a common sense approach to the alcohol/advertising/abuse issue.

Chairman GLENN. You could use that same argument, and I know Mr. Sanders and Mr. Metz disagreed with the earlier characterization of what was called a drug and what was not, but the facts pharmacologically are that alcohol is classed as a drug. You certainly could use the same argument you just used and say we ought to advertise cocaine.

Mr. FRITTS. No, it is illegal.

Chairman GLENN. Because the families are going to have a strong enough role that they would overcome what peer pressure might be.

Mr. FRITTS. Clearly, this is a very complex area. I think we are talking about the difference between a legally produced product, which pharmacologically is classified as a drug, and those drugs which are, in fact, illegal.

Chairman GLENN. Why do you not accept hard liquor advertising?

Mr. FRITTS. The history on hard liquor advertising goes back for a number of years. The hard liquor industry has their own code of practices which precludes their participation on radio and television advertising.

Chairman GLENN. Well, okay. I do not see how you can get away from the fact the way things are presented on TV, the attractiveness of the ads contribute to the problem. I think it is a little bit like—this may overstate it a little bit—but I think it is like being party to starting a fire, and then when it gets out of control, you rush out and join the volunteer fire department, and you are proud of that, and you tout that. And boy, we are members of that fire department, and you are so proud of the public service announcements and things like that to counter the problem you helped start to begin with.

Mr. FRITTS. Well, I do not know that we helped start the problem of drunk driving, Senator. There are countries which do not have advertising, like the USSR, Sweden, Norway, Finland, to name a few, yet they have incidences of alcoholism and drunk driving.

Other parts of the world are infected with this same disease absent any advertising.

Chairman GLENN. Well, what do you gentlemen propose? If you do not like the Surgeon General's report and you do not like any restrictions on advertising, and it is only brand switching, do you have any new programs you would like to propose as to how we are going to get control of drunk driving and stop this slaughter of 23,000 to 25,000 people out on the highways every year that comes from alcohol related deaths on the highways? Do you have any different approaches we have not thought of, any of you?

Mr. **Fritts**. Well, I think the Surgeon General indicated a voluntary approach would be the preferable approach, and I think you will find the National Association of Broadcasters, Mr. Chairman, willing to work with this Congress and with your Committee or any other committee to tackle this issue. We have poured hundreds of millions of dollars of air time and resources into this issue. We are working in an outreach manner with a number of groups, including Mothers Against Drunk Driving, Students Against Driving Drunk, and many, many others across the country, both nationally and locally. We will continue those efforts and we will remain open to ideas that will help further the goal of eliminating drunk driving on our Nation's highways.

Mr. **Sanders**. Mr. Chairman, I would add to that. I think you will see our industry coming forth with some more ideas on how to deal with substance abuse, particularly as it affects the youth of America. I think you will see us come forth with some more kinds of messages that are even stronger that we will pay for ourselves, as we have any other messages.

Chairman **Glenn**. But will they be put on in prime time on Mr. Fritts' networks right adjacent to the beer ads in the middle of the fight or the ball game or whatever?

Mr. **Sanders**. We put our messages, it seems to me, we always try to get them on the prime time, and incidentally we have put out public service announcements for each holiday against drunk driving, and the listenership has gone up with each one of the holidays from last New Year's through Easter break to Memorial Day. We had the Blue Angels on it. But we are going to increase our concentration, and I would like to suggest furthermore that here is the background that we would like to have had considered at the Surgeon General's Workshop, but we knew many of the people there were not going to take anything from the industry. I think that is a big mistake. We would like to sit down with our critics in a conference and exchange ideas.

We have to be part of the solution. We have been at it longer than most anyone. And to the extent that we have a responsibility, we want to discharge it. So I hope when I submit this to your Committee, Mr. Chairman, maybe it is a beginning of resolving this separation between the industry and its critics in the social problem that we all have to solve.

Chairman **Glenn**. Senator Kohl, my time has expired.

Senator **Kohl**. Well, I think it has been an outstanding hearing this morning. I come away with some of the irreconcilable differences between your positions. You want to sell as much product as you can in a responsible fashion. You do not want to have even one person, and I believe that is true, because it damages your industry——

Mr. **Sanders**. Hurts us.

Senator **Kohl** [continuing]. Get involved in drunk driving or accidents associated with drunk driving. On the other hand, Dr. Beauchamp says that the only way for that to happen is to sell less product, and so that is where I am. It is not an easy problem. It does not have an easy answer. I think we all understand that.

Mr. **Sanders**. Finally, may I add something to that, Senator, Mr. Chairman. It is finally the choice of people, better educated people, better informed people to try to lead a better lifestyle, a more moderate lifestyle, and I am all for that. Our industry is for more education on healthy lifestyles, balanced lifestyles. So in the final analysis it is the individual that makes the choice.

Chairman GLENN. Let me take a couple minutes here before we—are you finished? Let me take a couple of minutes and run down these requirements. The Surgeon General suggests, number 1, to require States to reduce the legal blood alcohol concentration from .1 percent to .08 immediately and to .04 percent by the year 2000. Now what is wrong with that? I would just like to run down these things and see specifically what your objections to these things are. You just object because it is the Surgeon General's report, or do you object to it being lowered to .08?

Mr. SANDERS. No, no. My objections have been very much confined to the advertising and tax and pricing. As I stated in my statement, sir, the blood level thing we really do not really—we are not that technical. All we are saying is if they would enforce better the existing blood level alcohol, I think we would find some real results there.

Chairman GLENN. Okay. I do not disagree with that, but you would not disagree, then, to going down to .08?

Mr. SANDERS. I have no position on it, and I would be impressed by what we hear from the safety enforcement people, the highway traffic safety.

Chairman GLENN. Mr. Metz.

Mr. METZ. Mr. Chairman, as the Surgeon General and Dr. Archer indicated, they are uncertain as to what particular point level it should be. And we take that position. We endorse on page 88 of the Surgeon General's recommendations that the U.S. Public Health Service should charge its appropriate agencies to begin a review of all relevant research.

Chairman GLENN. Well, if we are not sure, then why should we not make our errors on the side of safety and pull it down to .08 or .06 or whatever?

Mr. METZ. I would follow the recommendation of the Surgeon General's Workshop, Mr. Chairman, and undertake a very careful review before choosing any particular standard other than the prevailing.

Chairman GLENN. Okay. His second one there requiring States to immediately establish a legal level of .00 for drivers under 21, would you take exception to that or would you agree with that?

Mr. SANDERS. Well, first of all it is illegal for them to purchase the product.

Chairman GLENN. That is right.

Mr. SANDERS. And I am not a technician in blood alcohol level, but I have heard so many highway patrol people complain that they cannot round all the people up that they should at .1, and cannot put them away because of the courts, I do not know how they would arrest all the people, and where they would put them.

Also, I am told by some that we all contain within our own system without the ingestion of any alcohol beverage about a level of about a half an ounce from time to time from the fermentation in our own systems. I do not know that if that registers in blood level or not.

Chairman GLENN. That is something we ought to check on then. The third one we had, increase the Federal excise taxes, I think you have already expressed yourself on that one. We won't go into that one again. Number 4 was to earmark the revenues generated from the Federal excise tax increase to fund impaired driving prevention programs. Sound good?

Mr. METZ. We strongly object to that, Senator. It is so easy when one finds a worthy cause and few causes are as worthy as this. It is so easy to say let us escrow and earmark Federal revenues. We think this program has to compete with all others, national defense and all the other environmental concerns and social concerns that every elected representative has to contend itself with. We think it is grossly unfair to levy a tax on responsible users—of which most are responsible users—to pay for a problem that they are not directly related to, any more than the number 1 public health issue being obesity in the United States.

Chairman GLENN. Well, I understand that you object to the Federal excise tax. But if we are going to have a Federal excise tax over your objection, would you object to it being used to fund impaired driving prevention programs?

Mr. METZ. Absolutely.

Chairman GLENN. Okay. The fifth one he had was make chemical testing for blood alcohol mandatory for all drivers, passengers and pedestrians injured or killed in a crash involving a motorized vehicle. Do you think that is worthy?

Mr. SANDERS. I think that there should be better testing for serious accidents for all kinds of substances. There is a real question mark about multiple use of substances and we have not gotten an answer yet.

Chairman GLENN. No. I agree with that, but I certainly favor testing after fatal crashes like this just to determine what caused it.

Mr. SANDERS. Yes.

Chairman GLENN. Extend the warning law label to include warning labels on all alcoholic beverage advertisements by November of this year?

Mr. METZ. No, Mr. Chairman, the law is not really effective until November 18 of this year. You supported a bill, and I think a majority of members certainly of the House and Senate, that said let us try it out and after 2 years receive a report regarding the effectiveness of the law yet to be implemented. So we would urge no further tinkering in that area until we find out really whether this warning label law is going to be efficacious.

Chairman GLENN. Well, I do not look to the warning label law as being the answer to this whole thing anymore than it was in cigarettes, but I think it is one factor that leads people to say we better be careful of what we are doing and how far I get involved with this particular product. I think that is the basis on which everyone around here voted for the warning law label to begin with.

Mr. FRITTS. But, Senator, if the warning label law were extended to beer and wine advertising, it would set a precedent for doing the same, if you will, for automobiles. Automobiles when abused and not handled properly also kill people irrespective of whether or not an alcohol content is involved. It opens a whole range of problematic issues for the broadcast industry.

Chairman **Glenn**. Do you think the warning label law was wrong?

Mr. **Fritts**. No, I think there are a number of items——

Chairman **Glenn**. If it is right that we put it on the bottle then warning people that this product may be bad, why should we not put a subtitle on TV at the same time the ad is shown that says exactly the same thing?

Mr. **Fritts**. Well, because some of the warning label terminology which has been discussed for other products effectively precludes it from being advertised on radio or television. They could put the warning label in a corner either on a billboard or in print advertising, but in terms of being able to effectively advertise on radio and television, it would negate that opportunity.

Chairman **Glenn**. I am not sure I agree with that. I think we could figure a way to put the same warning label on. Just put it on as a subtitle? That would not be satisfactory?

Mr. **Fritts**. Well, the subtitle, for instance——

Chairman **Glenn**. The only people who would not get it then——

Mr. **Fritts**. For instance, with the issue of advertising of rental cars, and the airline industry disclaimers have been proposed which would effectively use up all the broadcast time to disclaim what they had just advertised.

Chairman **Glenn**. Well, that is not all bad. [Laughter.] Not completely bad.

Mr. **Sanders**. I think what would you find is you would end up without any advertising of the product.

Chairman **Glenn**. Well, you might. I do not want to take all the time on that. Number 7 was authorizing and funding Federal agencies to purchase advertising time for pro-health and pro-safety messages if substantially increased public service time and space does not become available. Mr. Fritts, I guess that would mean that you would probably favor that one, I guess, would you not?

Mr. **Fritts**. Well, I think if the agencies could provide the announcements the stations would air them at no charge. I do not know that it is good public policy for the Federal Government to be buying advertising to promote specific messages in that area.

Chairman **Glenn**. Yes. Number 8 eliminates tax deductions for alcohol advertising which focuses on lifestyle rather than the price and product.

Mr. **Sanders**. Who is going to call the shot on that and who is going to determine what is lifestyle and what is not, Mr. Chairman?

Chairman **Glenn**. Good question. I do not know the answer to that. Number 9 was to encourage States to pass laws to confiscate driver's licenses on the spot for those found to be above the legal blood alcohol level.

Mr. **Sanders**. We are for almost all of the tougher sanctions on the driving safety.

Chairman **Glenn**. Go with that one. Okay. Ten was authorize and fund Federal agencies to expand and evaluate their alcohol impaired driving programs and research activities. Support that, fine.

Mr. **Sanders**. Yes.

Chairman **Glenn**. Gentlemen, we have gone a long time and you have been very patient this morning; I appreciate that. We may have a lot of other questions from other members or once we review the testimony for those of us that were here this morning. We appreciate your being with us today. Obviously, it is something we are all interested in working on. We want to work together on these things. Sometimes these hearings get a little more confrontational perhaps than is pleasant, but we are trying to get to the same end, and that is to cut down the deaths out on the highway.

And if you have ideas on it, we welcome your ideas. We would appreciate your keeping in touch with us because that is our overall objective and if someone has some ideas how we are going to do that, we would appreciate knowing about it. Thank you.

Mr. **Sanders**. Thank you, Mr. Chairman.

Mr. **Metz**. Thank you.

Chairman **Glenn**. The hearing will stand in recess subject to the call of the chair.

[Whereupon, at 12:30 p.m., the Committee adjourned, subject to the call of the chair.]

AVERTING ALCOHOL ABUSE: NEW DIRECTIONS IN PREVENTION POLICY

WEDNESDAY, JUNE 21, 1989

U.S. Senate,
Committee on Governmental Affairs,
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m., in room 342, Dirksen Senate Office Building, Hon. John Glenn (Chairman of the Committee) presiding.

Present: Senators Glenn, Kohl, and Roth.

OPENING STATEMENT OF CHAIRMAN GLENN

Chairman **Glenn**. The hearing will be in order.

Good morning and welcome to the second of a series of hearings that this Committee will be holding on the recommendations made to the Surgeon General at his Drunk Driving Workshop last December. We had four hearings on the general subject of alcoholism last year and we are continuing that series into this year as well.

As I said last week, drunk driving cannot and should not be seen as a problem in isolation, but as a symptom of alcohol abuse. The comprehensive approach taken by the Surgeon General is to be commended, and I will be examining the recommendations made by him and his Task Force on Drunk Driving with a view toward possible implementing legislation later on.

Drunk driving is a public health problem, if you want to term it that, but it is of massive proportions. More than 42,000 alcohol- and drug-related automobile crashes occur each year, killing some 24,000 Americans.

In other words, every 2½ years in alcohol-related deaths on the highways, we kill approximately the same number of people we killed in all 10 years of the Viet Nam War—all 10 years—and we injure an additional 534,000 people every year.

Two million people are arrested annually for drunk driving or for driving under the influence of alcohol. Those are the cars coming down the road toward you in the late afternoon and early evening.

Alcohol is a drug. It is an addictive drug. It can be a "gateway" drug, a drug of entry, as it has been called, to the so-called "hard" drugs like crack, cocaine, heroin, and marijuana.

The annual cost to the Nation of alcohol abuse and alcoholism will reach an estimated $136 billion by 1990 and is expected to cost our society $150 billion a year by the end of 1995 if we continue on our present course.

Alcohol directly or indirectly causes well over 100,000 deaths annually. It is a factor in teenage pregnancy, poor scholastic achievement, crime and violence, the gap in health status between white Americans and Americans from minority groups, and the general loss of productivity in the labor force.

As I said in my statement last week also, over half of the entries in the VA hospitals are alcohol-related.

Some 4.6 million adolescents—3 out of every 10, or some 30 percent of our adolescents—have alcohol problems. I questioned that figure when I was looking at the notes that staff had given me yesterday afternoon as to whether 30 percent of our adolescent kids have alcohol problems. I could not believe it was that high.

They went back and checked the figures and the substantiation for those figures was the study "Alcohol and Health," Sixth Special Report to the U.S. Congress, from the Secretary of Health and Human Services; January 1987; 30 percent of our adolescents!

Nine out of 10 teenage auto crashes involve alcohol. On the college campus, alcohol is a major disciplinary, vandalism and crime problem.

Now, under the Anti-Drug Abuse Acts of 1986 and 1988, the Department of Education was given a major role in educating our young people about the dangers of illicit drug use. For persons under the legal drinking age, the use of alcohol, like the use of cocaine, is an illegal activity.

A recent survey conducted by the University of Michigan's Institute for Social Research suggests that the "message" on the dangers associated with the use of crack, cocaine, marijuana, et cetera, seems to be getting through.

Graduating high school seniors report reduced use of the "hard" drugs, the illegal drugs, but almost no change in their use of alcohol and tobacco products.

We welcome Education Secretary Cavazos here today. His visit marks the first time a Secretary of Education has come to Capitol Hill to speak on the problem of alcohol abuse. Mr. Secretary, we particularly appreciate your being here this morning. We welcome Mrs. Cavazos who is here with you also this morning.

We will be very interested in soliciting your Department's views on implementing the Surgeon General's proposals to reduce drunk driving. We will also be examining the Education Department's role in educating our youth with a "no first use" message for alcohol beverage products.

We are also pleased to have with us today representatives of the Federal Trade Commission and the Federal Communications Commission.

These agencies, along with BATF, the Bureau of Alcohol, Tobacco and Firearms, have authority to regulate how alcohol beverage products are advertised in the United States and could enact the "advertising and marketing" panel's recommendations if they choose to do so. So we will be listening closely to the views of these agencies on the Surgeon General's proposals.

Richard Schweiker, former Secretary of the Department of Health and Human Services, in his testimony before the Presidential Commission on Drunk Driving said that, in the 1950's, it was considered a national emergency when 200 young Americans a year aged 15 to 19 died from polio.

At the height of the polio epidemic in 1952, 3,000 Americans in all succumbed to the disease, and we rushed to develop a vaccine. The public health problem we are faced with today produces more than triple the number of those polio deaths just for 16 to 25 year olds alone."

And yet, there does not seem to be a sense of "urgency" surrounding the public health epidemic of alcohol-impaired driving as there was for polio.

The Surgeon General's recommendations provide a public health approach to combatting a National disaster. We need to carefully examine this plan. Its implementation will require citizens, the alcohol beverage industry, and elected officials at all levels of government to work together to heighten awareness over the dangers of alcohol abuse and reduce the incidence of alcohol-related crashes. Senator Roth.

OPENING STATEMENT OF SENATOR ROTH

Senator ROTH. Thank you, Chairman Glenn, and thank you, Secretary Cavazos, and all the witnesses for testifying here today before us.

Like a lot of the members of the Senate, in the last few days I have been quite busy with the child care issue, and yesterday I attended hearings at the Finance Committee addressing the needs and problems of bringing up healthly children in today's hectic world.

Today, in this Committee, we consider another pertinent issue related to the concern of raising healthy, well-adjusted children. Today, we concern ourselves with alcohol abuse and drunk driving.

As I mentioned in last week's hearing, Delaware has found that three out of five of its high school aged kids drink alcohol on a regular basis. Although the number of drunk driving related accidents among the 15 to 24 year old group has dropped, it is still a major cause of death for young Americans.

In this and many other societies, drinking is often considered a rite of passage among young people. A rite of passage is meant to signify a new maturity, a greater understanding of one's world. However, this has not been the case, as the occurrence of far too many alcohol related highway fatalities among our young people have proven.

I look forward to the Secretary's testimony concerning ways in which he believes the Department of Education can best educate our youth and all our society about the dangers of abusing alcohol.

How does a child of say, 10, deal with the dichotomy of learning in school that alcohol is a dangerous substance and return home to see mom and dad having wine or cocktails with dinner? Should parents avoid drinking in front of their children?

No matter what venue of industry or government our witnesses represent today, I am certain we are all in agreement that the unnecessary loss of life, young or old, because of drunk driving and alcohol abuse is a tragedy. Hopefully, these hearings will help us find a way of stopping these tragic losses.

Mr. Chairman, I regret that I have another committee hearing which is involved in some legislation I am proposing, so I shall have to leave. I hope to be able to return.

Thank you, Mr. Chairman, and thank you, Mr. Secretary.

Chairman **GLENN**. Thank you.

Senator Kohl.

OPENING STATEMENT OF SENATOR KOHL

Senator **KOHL**. Thank you. I am very pleased that the second hearing on alcohol abuse has been scheduled for today and again I want to commend Chairman Glenn for his dedication on this issue.

At the last hearing, we heard testimony from Surgeon General Koop and a number of other public interest and industry witnesses regarding the recommendations issued following the Surgeon General's Workshop on Drunk Driving. Indeed, I thought the hearing was extremely helpful in terms of educating the Committee on the range of public policy options available to combat alcohol abuse.

At the same time, the hearing highlighted the strong differences of opinion held by various interests and people about which measures are either warranted or effective. Undoubtedly, a consensus exists on the need for increased educational efforts aimed at curbing drunk driving and alcohol abuse.

The need for more education appears to be most critical amongst young people who may be learning a lot about the dangers of drugs, but not enough about alcohol, which is the most commonly abused substance among teenagers.

I look forward to hearing from Education Secretary Cavazos this morning about what his agency can do to help correct this apparent deficiency in our educational programs.

In addition, nobody questions the need for increased law enforcement activities. Because many people believe they can drink and drive without being caught, they continue to behave irresponsibly. When more drunk drivers are caught and punished, and when more licenses are automatically revoked, fewer people will run the risk of driving under the influence.

But beyond the nearly unanimous support for enhanced education and law enforcement efforts, the consensus breaks down. For example, there is a great deal of ongoing debate among well-intentioned and reasonable people about whether advertising restrictions are effective and whether they are constitutional.

Undoubtedly, these constitutional questions would result in protracted legal challenges if advertising restrictions were enacted. As we evaluate the Workshop's proposals for possible legislative action, Congress should take into account the reduced effectiveness of any measure which will be the subject of lengthy legal battles.

I look forward to hearing the testimony of the witnesses scheduled to appear here today and of course I am hoping to learn more about our problem and the solutions.

Thank you, Mr. Chairman.

Chairman **GLENN**. Thank you, Senator Kohl.

Mr. Secretary, we would appreciate your leading off this morning and giving us your statement.

If you wish to give an abridged version, that is fine. In either event, the entire statement will be included in the record.

TESTIMONY OF LAURO F. CAVAZOS, SECRETARY, DEPARTMENT OF EDUCATION,[1] ACCOMPANIED BY DICK HAYS, DIRECTOR OF DRUG ABUSE POLICY OVERSIGHT

Secretary **Cavazos**. Thank you very much, Mr. Chairman, and Senator Kohl.

I am here today, of course, to testify on this issue. With me is Dick Hays, Director of Drug Abuse Policy Oversight in our Department. He reports directly to the Secretary of Education in this important area.

I would request, Mr. Chairman, that my testimony be for the record entirely, the one that we have submitted, and I am going to give you a slightly abridged one, because it has quite a bit of detail in it, because certainly this is a very, very important issue for all of us.

Chairman **Glenn**. The entire statement will be in the record.

Secretary **Cavazos**. I want to thank you for inviting me to discuss the recommendations of the Surgeon General's Workshop on Drunk Driving. I thoroughly concur with the Surgeon General that we cannot do enough to "reduce and maybe one day eliminate this terrible thief of health and life."

Drunken driving takes, of course, a particularly heavy toll on the lives of our young people. Young men and women between the ages of 15 and 24 account for more than 8,000 alcohol-related fatalities or about one-third of all fatalities each year in which alcohol is implicated.

In light of the seriousness of this problem, we in the Department of Education have supported and co-sponsored the Surgeon General's Workshop since its inception, and we were part of the planning committee and we participated fully in the discussions. Further, we concur with the Workshop's education recommendation.

Since I view it as appropriate to respond to those recommendations on education, I would like to respond to them as a group because some of these recommendations do not fall solely within the purview of the Department of Education while others embody initiatives that we have already undertaken.

First, in the 3 years since the enactment of the Anti-Drug Abuse Act of 1986, the guiding principle behind all Department of Education prevention efforts has been recognition that our target population, school-aged children, that in that group, alcohol is an illicit substance just as is marijuana, cocaine, or other illegal drugs.

The Surgeon General and I are in complete agreement on this point and I will share his recommendations with fellow educators throughout the Nation.

Already, at my request, the Surgeon General has sent copies of the Workshop's Proceedings to the presidents of America's 3,700 institutions of higher education, to all Chief State School Officers, and to a multitude of other educators and educational groups.

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[1] See p. 185 for Secretary Cavazos' prepared statement.

I have requested that special attention be given to the Surgeon General's recommendations in the series of workshops on campus safety and drug and alcohol prevention for college administrators that the Department of Education is co-sponsoring with the Departments of Transportation and Health and Human Services.

My point here is that a number of the Departments are working together in this endeavor.

This fall, the Department of Education is planning a commission to survey the college-age students to obtain more reliable information about their drinking and driving habits and their use of other illegal substances.

We have cooperate efforts with other Federal agencies on drug and alcohol education prevention efforts, as well as the private sector group. Last fall, the Department contributed $100,000 to the Campaign for a Drug-Free America, strongly supported the Red Ribbon Campaign, and had a series of five regional conferences around the United States to introduce new drug and alcohol prevention materials developed by the Department—specifically, the Drug Prevention Curricula Guide and a series of eight drug and alcohol prevention videos.

The Drug Prevention Curricula Guide details the importance of parental—I want to emphasize that—parental and community involvement, strict policies and comprehensive programs.

The drug and alcohol prevention videos have been remarkably well received. Each of these videos is targeted at either elementary, junior high, or high school students. Last fall, copies of these videos were mailed to every school district in the United States. In all, there were more than 180,000 videos sent out by our Department, and we are now developing another drug and alcohol video that will be specifically targeted to the urban minority at-risk group.

The Department of Education and the Department of Health and Human Services continue to support the National Clearinghouse for Alcohol and Drug Information which distributes material we produce to students, parents, educators, and other interested parties.

We have been actively involved during the last 2 years in assisting the National Association for Children of Alcoholics with their elementary school project.

Finally, we are also in the process of developing drug and alcohol prevention materials for use in the early childhood years.

I would like to address our policy regarding not only drinking and driving but the use of alcohol by our young people. The policies of the Department of Education are not only consistent with the education recommendations of the Surgeon General, but in some cases they go one step further, or in others, were already advocated by the Department in our section of the White House Conference for a Drug Free America's Final Report.

The Department of Education's policy, stated in Schools Without Drugs, is no use of alcohol for those under 21 period. Over 2 million copies of this publication have been distributed and foreign governments have even asked for permission to translate that document.

This handbook tells us how use of illicit substances starts and progresses; how it can be identified; and the dangers of those uses.

The Department has consistently encouraged the development of strict enforcement of strong policies against the use of alcohol and other illicit drugs by students. Two years ago, we instituted the Drug-Free Recognition Program for our schools, and this program seeks out and nationally recognizes schools that have exemplary alcohol and drug abuse programs.

We believe that in regard to drug and alcohol abuse, we have a duty to educate our students for life and not just in regard to one component of their behavior.

We advocate that all alcohol and drug education be begun in kindergarten and continued through the 12th grade; and, in addition, that prevention be taught not just in health classes but it should be infused in the general curriculum—should be taught in chemistry, in biology, in economics, and in English.

Furthermore, we, like the Surgeon General, advocate comprehensive, community efforts in which parents, educators, students, and other members of this community join together to combat alcohol and other drug use.

I strongly urge parents to be involved in alcohol and other drug prevention efforts at their children's schools and within their communities.

We also support measures to prevent young people from driving under the influence, such as the legislation that was originally passed in Oregon and has now spread to several other states.

This legislation allows the State to withdraw for a year the driver's license of any 16 to 18 year old for a drug or alcohol offense, or to delay the teenager's eligibility for a license for a year if he or she is not yet old enough to have one.

We share information about such innovative programs as this one with parents, schools, and other groups around the country in our Challenge Newsletter. That is a publication that espouses the no use philosophy of Schools Without Drugs, and it provides the teachers, the parents, and the students with the latest information or tips on drug prevention education. More than 350,000 copies of this Newsletter are distributed once every two months during the school year.

Finally, with regard to the funds that the Department of Education distributes on a formula grant basis to the States, we continue to monitor programs that are being supported at the local level to ensure that they contain a strong no-use message for alcohol and drugs.

We intend to make sure that we are doing all we can to help our schools and communities combat alcohol and other drugs used by our children.

I would like to mention that in part, as a result of the Department of Education's support for the White House Conference for a Drug-Free America, several State legislatures around the country have passed laws requiring present and future teachers to have drug and alcohol prevention certification.

We hope that this statement clearly indicates the efforts of the Department of Education to stem the use of alcohol by our young children. It is our intention to press forward on implementation of the Surgeon General's education recommendations.

We would be pleased to answer any questions that you have at this time.

Chairman Glenn. Thank you, Mr. Secretary.

Just to follow up on your last thought there, in the activities the States have taken, have there been any particularly innovative approaches that any of the States have taken that you recommend as models for other States to follow?

Secretary Cavazos. If I may, Mr. Chairman, there are a number of activities that deal in the area of curriculum and education, as such, is most of the thrust.

Richard, do you want to pick up a little bit on that?

Mr. Hays. Since the Anti-Drug Abuse Act of 1986, the States have taken a leadership role in this regard, and that includes the offices of governors and State education agencies.

In terms of innovative programs, as the Secretary indicated, States like Georgia, which went out and the governor used his funds to survey all school districts to report on the use of alcohol and drugs in those communities, reported back to those communities, and encouraged each of those communities, along with the schools, to develop plans.

Colorado, Massachusetts, Florida, a number of our States have taken very aggressive roles in moving ahead. In terms of the most innovative programs, I think we had a demonstration of those this week, with the School Recognition Program, where we recognized 47 schools who are just doing an outstanding job, and we are going to make sure that information is disseminated and shared with others.

Chairman Glenn. In those States, do we have enough experience yet to know what is working and what is not, have the accident rates gone down, is the incidence of students being picked up for being under the influence, has that diminished any? Are the programs working? That is the important point.

Mr. Hays. As you understand, Senator Glenn, this is a new program. It just started in 1986, really Fiscal Year 1987. We do have an evaluation program going on this year and that is mainly looking at the management and implementation of that program.

As soon as we can and is feasible, we will design an impact evaluation to report back to you and others on the impact of that program.

Secretary Cavazos. I might add to that, Mr. Chairman, if I may. The problem that I think we find ourselves in is really not knowing that much about what works and what does not work. We have not, as a nation, truly focused on this issue until the very recent time, so we will be doing longitudinal studies on it to try to find out what is better guidance there.

That is one of the points in my testimony, one of the most important efforts I think that we can do from our side, from the Department, is purely education and in that education, to give leadership to the States of what works, what you might try, and some innovative ideas.

Chairman Glenn. What is the bigger problem, alcohol or other drug use?

Secretary Cavazos. I think both of those, all of them remain very, very serious. Now, obviously, as you pointed out in your statement, alcohol is that gateway. It is the entry to those more serious drugs.

But in terms of the biggest problem, the numbers really are over the alcohol part, but it just leads on to such serious consequences. I think that if we are going to stem this—I will keep coming back to this time and time again today or this morning, and for the rest of my involvement in this area—is that we are going to do it through education.

It is not unlike, Senator, the way that we are pushing now to try to combat the use of the illegal drug side, the other, the hard drugs. We are developing a curriculum now that will start in kindergarten and will work its way all the way through the 12th grade, with alcohol as a piece of that.

That is a long time. That is what I am concerned about, that we must move it ahead.

Chairman GLENN. There seems to be a shift of emphasis. In the Department of Education's first report evaluating the implementation of the Drug-Free Schools Act, you reported that high school principals found that alcohol consumption appeared to be a growing problem in their schools. There have been some other reports that hard drug use was perhaps going down some.

In light of this, how has the Department reoriented its spending of new Drug-Free School funds to address alcohol more than your Department has in the past? Have you reoriented your spending priorities on this, or is that yet to come?

Mr. HAYS. In the last year, specifically to address the issues of alcohol use, Mr. Chairman, we have revised "Schools Without Drugs," which is our flagship publication, to provide more emphasis on alcohol and what to do about it and the dangers of alcohol.

In our programs that we are funding, coming up next year we are putting a priority particularly on alcohol abuse and particularly for children who are victims, children who are from families where there is substance abuse.

In addition, as the Secretary indicated, we share information on a timely basis, and with our national conference this year, where we had all the coordinators from the governors' offices and State Education Agencies, we shared the latest information dealing with alcohol abuse and what to do about it. We give this information out to our people on a timely basis.

Chairman GLENN. The Department of Education was appropriated over $229 million in 1988 for drug education and $350 million in 1989 for drug education.

Does any of that go to educate students specifically about the dangers of drunk driving? Are your programs more generic or do you get into the specific dangers of drunk driving?

Mr. HAYS. The program, most of the funds that go to local school districts, Mr. Chairman, it is up to that school district to assess the problem in that school district, to devise a plan that is going to meet those issues and problems in that school district, to bring in the community and other members of that community to participate in their planning in it.

If they view that alcohol is the major issue, they may plan and use it accordingly. We will have more information on that as to how that money is being used, in what way, in probably about a year, but right now it is up to local school districts to devise plans to meet the problems in their school districts. It is up to the States to review those plans and make sure they have integrity.

Chairman GLENN. In your testimony, you list a number of activities that the Department has undertaken to address alcohol abuse. Is there any way for you to estimate what percentage of Drug-Free Schools funds are spent on just alcohol issues?

Secretary CAVAZOS. We do not have a percent on that. We will research that out and try to find that, Mr. Chairman.

Chairman GLENN. I am just curious about that one.

Mr. Bennett, the drug czar, received a lot of publicity here the last few days for his remarks on a show about the death penalty and what should be done in that regard. I will not go through all the graphic details that were in the paper about his opinions. But do you share his feeling that violations in this area should carry the death penalty with them?

Secretary CAVAZOS. No. I believe that we are addressing here, at least from my vantage point directly as Secretary of Education looking at the problem, that we have, of course, a very important job of getting across to every citizen in this Nation the seriousness of what is happening to our young people and the impact that this has on this Nation.

The decisions about what you do with people who deal in the areas of drugs, alcohol, and these other kinds of things that really turn the minds of our young people, and our citizens in general, are more appropriately left really in the area of the courts to make those decisions at that time.

Chairman GLENN. Well, I do not bring that up just to embarrass Mr. Bennett again because I am sure he has been embarrassed enough by some of the statements on that, that he made himself, but I do bring it up in a different context.

One is in the area of punishment after something has occurred. The other is education in advance of what may or may not transpire. I know we need probably the above, but you have things of a less drastic nature, perhaps of shock treatment.

Some judges have prescribed, after an automobile accident, that people be sentenced to go through the morgue or something else, to actually view dead bodies and observe the tragic consequences of their drinking and driving.

You have wrecked cars put out on view at intersections or something like that. In other words, it is shock treatment. It has been suggested that we identify cars of people who have been arrested for drunk driving, put some sort of identifying feature on them to indicate to other drivers that they are dangerous.

Do you have any studies or have you considered any of those types of things as part of the education program, and if so, what was the result of any study you made on this?

Secretary CAVAZOS. Mr. Chairman, I do not know of any directly along that line. We are going to continue to seek ways mainly through education. Now, education is such a broad term, and one of the ways—obviously, you talk about the biology and chemistry of what happens in these drug cases, but education of the mind is terribly important, since students understand that.

I was interested, as you were talking about seeing the examples of automobiles that are wrecked, or what have you, I recall seeing on college campuses where the students, through their own efforts, really would get cars on campus and show the effect of drunken driving.

I think that if we could mobilize more and more of our students at the college level to become involved in the educational process, that that would help as a starter.

I do not know of any specific—do you know of anything really specific?

Mr. HAYS. No, nothing along those lines, but what we do advocate is firm policies, clear policies, with the consequences of violation clearly spelled out.

In the Schools Without Drugs we show examples of different types of policies and how they work. For example, the Flowing Wells High School in Arizona, for children who have abuse problems, there are various alternatives. They go to other classes and can work their way back into the school system if they shape up.

There are other forms to get people, not only to punish them, but find corrective measures to get them back into the classroom and be the students they should be.

Chairman GLENN. How do you make peer pressure, make it popular not to use alcohol? That is the problem you are up against in a nutshell.

Secretary CAVAZOS. That is the one that we are up against, yes, sir.

Chairman GLENN. My time is up on the first round.

Senator Kohl.

Senator KOHL. Thank you.

Mr. Cavazos, you say in your prepared statement that alcohol abuse prevention should be taught in health classes, as well as through the general curriculum.

I believe that we need to drastically improve health education in our schools starting at the elementary level and that health classes should spend a good deal of time talking about the physical effects of alcohol and drug abuse.

It does not do any good just to tell kids not to abuse alcohol or drugs. It seems to me we have to tell them why they should not do these things.

So in that context, do you, in fact, advocate a requirement that elementary schools include comprehensive health education classes in their curricula?

Secretary CAVAZOS. Senator, we, as the Department of Education, do not have the authority to impose a curriculum, but we do have the authority to point out curricula, the models that do work. We leave the curricula development up to the local school board and let them make the decisions about what they are going to teach.

We feel so strongly about this issue, though, as I pointed out in my testimony, that we will have by the end of January of next year, we will have a model curriculum, just as we had a model curriculum turned out from the Department a few years ago about academic requirements in education in general that were sent out, and said hopefully, everyone is going to do these and this is the reason why. We are going to do the same thing with alcohol and drug abuse programs.

I remain convinced, I am going to keep saying this, that the only way we will ever truly stem alcohol and drug abuse in this Nation—and I am very supportive obviously of everything we can do to keep the stuff from coming into the country, the drugs, and controlling the alcohol, and all the others—but I think we can only do it through alcohol.

That, to me, requires therefore education, a lifetime of education, that starts out in kindergarten at the appropriate level, so we will have a curriculum that will state at this point this is what you should be teaching these youngsters, that is appropriate for kindergarten, first grade, fifth grade, right on up the line, so that it becomes an important part.

You see, one of the problems, Senator, that we have is unfortunately, in some of our schools now, well, we are going to do drug abuse this week for an hour, and then we do not hear any more about it.

What I am trying to do is to get a national consensus to say this is vitally important to this Nation and we must address that issue. We are going to keep hammering away at them about that. We will have that curriculum ready and we will get it right out there, and it will be right alongside that academy recommendation, as well.

Senator KOHL. Mr. Cavazos, I understand that a good number of high school dropouts have either alcohol or drug problems. I think that is well known.

Congress authorized the School Dropout Assistance Demonstration Program to provide counseling and assistance to dropouts, and much of that counseling and assistance involves identifying and treating alcohol problems. Clearly, the dropout problem is closely related to the substance abuse problem.

Can you tell us why the Administration requested zero funding for this program in the Fiscal Year 1990 budget?

Secretary CAVAZOS. The dropout prevention program that we did not ask to have continued funding was a 2-year program that was specifically earmarked to be terminated at the end of 2 years, but at the same time, we requested quite a bit of increase into the Chapter 1 programs that provide a lot of the dropout counseling, as well as other programs that have great impact on the dropout issue.

One of the things that I was able to do early on, when I arrived in the Department at the end of September, was to retrieve the budget that had already been submitted, and we redirected about $750 million of that budget from areas of programs where I felt either were duplicative or had come to the end of their time, or perhaps had not served their purpose.

We directed that $750 million into Chapter 1 programs, dropout prevention programs, for the most part, as well as the Pell grant support for needy students. In addition to that, in the President's initiatives that were recently submitted, and I testified on last week, it specifically earmarks a $25 million request there for special funding for drug abuse areas in urban areas that are heavily impacted.

So what I am getting at, Senator, is that that program, that 2-year program now has come to an end, and we are therefore redirecting our efforts through all of these others.

That is the one I was looking for right there. If we take all of the things that we consider in areas of drug prevention, as well as dropout prevention, and this includes the Chapter 1, Drug-Free Schools and Communities, our Magnet school programs, education for homeless, Indian education, immigrant education, some of the vocational education.

All of those come together to a little over $6 billion of our effort that are going pretty much directly in that area. Then, if you take the President's initiatives, which include the Drug-Free Schools—and that is the $25 million that I mentioned—one of the other initiatives that I think we need to call attention to at this time, too, is the request of the President for presidential merit schools. That is a $250 million request.

I want to emphasize one thing. People have said, well, all that you are going to do is reward those schools that are already meritorious. No, what we are proposing here is taking those schools that have problems and have decreased their dropout rate across a period of time, have increased test scores, have kept drugs and alcohol off their campus, we use a variety of dropout numbers and these kinds of things, use a variety of criteria to determine those schools that are truly meritorious.

So, therefore, I think that we are trying to direct our dollars that we have available into those areas. It will touch and will more than compensate for the funding shifts that we did on that program in the area of dropout prevention.

Senator KOHL. Secretary Cavazos, there is hardly a teenager in this country who would not live in dire fear from the threat of losing his driver's license.

You mentioned the Oregon law which takes away the driver's license of a 16 to 18 year old for a drug or alcohol offense. It seems to me that this would make a lot of kids think twice about taking a chance.

Would you, sir, recommend that the Federal Government require States to pass such laws, perhaps by threatening to cut off highway funds to States that do not cooperate?

Secretary CAVAZOS. I think that certainly is an initiative that needs to be looked at very seriously. The idea of driving, the ability to drive is one that so many youngsters treasure and it is fine, but the loss of that could be I think a good thing that we need to consider as a possibility.

Now, let me say there is another proposal that is parallel along this, that is already in West Virginia. There, if you drop out of school, you lose your license for that period of time.

So I think what I am getting at here, Senator, is already out there and amongst our States. They are starting to look at that as a mechanism of dealing with these social problems. Certainly, they need to look at it, as far as I am concerned, in terms of alcohol. It keeps them off the road.

Senator KOHL. I think you are agreeing, I think you are saying that you think it is a good idea, and I am sure you would like to have as strong an impact as you could on this problem in the time that you are Secretary of Education.

So if you do think that it is a good idea, and if we agree that kids live in dire fear of losing their license, would you consider recommending that State highway funds be cut off from States that do not enact such a kind of program?

Secretary CAVAZOS. I would, sir. I feel so strongly about it. You know, when you just stop to think about the numbers that we have talked about here and the social impact. We cannot even measure, truly measure the ripple effect of drunk driving on this Nation, you just keep going.

Of course, I have spent my whole life in health education, my professional life, and just thinking about the problems there, that is has on mental health aspects, as well as what it does to a community, what it does to a family, what it can do right on down the line to our whole society.

So, therefore, you say, well, that is a very stringent measure that you are proposing there. Well, this kind of thing needs stringent measures. We must come together as a Nation to address this thing, because it is extremely serious, we cannot continue.

Senator KOHL. Would you agree with the thought that I have, that during your tenure as Secretary of Education, there is probably nothing that is more important than what we are discussing this morning?

Secretary CAVAZOS. Let me say that the most important one that I have—let me talk about my agenda right along that line. I appreciate your question.

I have said time and time again that our most important agenda is to educate every person to his or her fullest potential. We tend to think of that quite often in terms of the academic sense, and, yes, we should and that should be our major thrust.

But also we do have that responsibility, if they are going to reach that full academic potential, that full potential, we must stem those things that have impact on their reaching it: dropouts, drug abuse, alcohol abuse, the social issues that we have to deal with daily.

In fact, I think that we have not, as a Nation, addressed this fundamental fact. We often talk about our education deficit, how we do not do as well on test scores and we do not do as well when one compares to the other industrialized nations of the world in terms of our students and how they do in math and science and these other areas.

People say to me, why is that, is it because the teachers are not doing a good job, or the students are not studying.

Well, there are probably a lot of things that go in there, but we really have now today so many more social things that impact education than we have ever had before. Alcohol is one of them. That needs to be addressed.

So, Senator, what I am getting out of this long statement is that we need to address all of the issues that will keep this Nation from attaining that full education for every person.

Senator KOHL. Thank you.

Secretary CAVAZOS. Thank you, sir.

Senator KOHL. Thank you, Mr. Chairman.

Chairman **Glenn**. Some education is clearly going to be a major tool in our fight against drugs. Mr. Bennett, who has been called the drug czar, is drawing up a national drug plan that will be unveiled in September.

Can you tell us what contact and coordination has occurred between your office and that of Mr. Bennett?

Secretary **Cavazos**. Yes, sir. We have had quite a bit of contact and coordination with his office. I have met with Secretary Bennett a number of times, on two occasions. In addition to that, though, our staff meet weekly.

Mr. **Hays**. Yes, we meet weekly.

Secretary **Cavazos**. You can go over that, and we are preparing at the present time, and working with Mr. Bennett, trying to pull together—we will pull together our committee that will be giving us guidance in this area.

Do you want to talk about that, Dick?

Mr. **Hays**. We have had a very close relationship with the new Director and his office, and as the Secretary said, we are on the planning committees. Besides that, we probably have daily phone contact with his office. It is a close and collaborative relationship.

Chairman **Glenn**. What kind of research are we doing on what works? How are you following up on these programs to find out what is effective and what is not, an evaluation, in other words? Are you active in that area?

Secretary **Cavazos**. Yes, sir, we have a number of initiatives in the area of following up. We have responsibility to do two parts. One, follow up on money that we give to the States in terms of how they, one, use it, and two, what works.

Do you want to touch on some of our initiatives?

Mr. **Hays**. Yes. We have underway this year as a major initiative, an evaluation that I commented on a bit earlier. This is to take a look at our largest program, our State and local program, and how that program is being run and managed and implemented at governors' offices and at the State and local level.

In addition, that will provide us good information on evaluation processes and help be the first step in designing the impact study that you were talking about.

Another step that we are taking right now is developing an RFP which will be on the street shortly. It is to get at looking at a number of the investments we have made in discretionary programs and to look at things that look exciting and innovative, and look like they are the programs that we need to do some case studies about, so we can share how those programs work.

Chairman **Glenn**. The Education Panel of the Surgeon General's Drunk Driving Workshop recommended balancing the impact of alcohol beverage advertising with fair time counter-advertising.

You have indicated you support the Education Panel's recommendations. Could you tell this Committee how you plan to implement this recommendation?

Secretary **Cavazos**. I must admit, Senator, we do not have a plan at this time as to how we would do that other than to urge looking at the whole issue of advertising. Obviously, here we have, as you have pointed out, constitutional questions and something that the FTC will have to be dealing with.

But we feel that certainly that whole area is something because—let me put it this way. We really must find ways to get the message across to the youngsters of the problems of those drugs and alcohol, so that I am receptive to ideas of how we can do that.

From our Department specifically, I have decided that one of the ways that we personally will do it, in addition to our publications and educational efforts, is that we are in the midst of preparing—in fact, I have already approved the script—preparing a number of 1-minute and 30-second tapes that will go out, hopefully, they will be used on television and radio, dealing with the problem of drug abuse and alcohol abuse.

I will do it personally myself and I will do it in both English and in Spanish, really trying to get from the personal side. I am not calling that advertising from our aspect. I am calling it public information.

We think that is terribly important and should be one of the things that we should be involved with.

Chairman GLENN. How much will Mr. Bennett's national plan to combat drug abuse focus on alcohol?

Mr. HAYS. I do not have any information on that, Mr. Chairman.

Chairman GLENN. Has your work with them indicated an interest in that area in addition to the illicit drugs?

Mr. HAYS. Certainly, our emphasis would be, as the Secretary indicated, we consider alcohol an illicit substance for those under 21. I am sure that Director Bennett's office will agree with that position.

Chairman GLENN. If we just take the figures involved in alcohol abuse and the number of deaths that occur every year, and so on, it makes the hard drug problem, much as I support all the anti-activity, but it makes it look rather small by comparison.

We are talking about 100,000 deaths. We are talking about 24,000 or 25,000 deaths on the highway, alcohol-related, every year. I believe it was the year before last there were 4,700 reported hard drug overdose deaths in the country.

So it puts it in a little different perspective when you look at it that way. So I hope whatever you are doing with Mr. Bennett can focus on some of the alcohol problem also.

Secretary CAVAZOS. I might add, Mr. Chairman, in terms of some of the initiatives that we are really pushing here, I have talked a lot about education within the schools itself, but also the need to educate the parents is an important effort that we are undertaking from the Department, as well, so we are going to try to tie all of these things together.

Chairman GLENN. Just one last question before my time is up here. On page 28 of the proceedings, the Surgeon General states, "Legal or economic sanctions should be developed against the alcohol beverage industry and possibly universities if alcohol advertising and promotion on campuses does not cease by September 1990."

Do you agree with that and what sort of sanctions do you think might be appropriate?

Secretary CAVAZOS. If I may, Mr. Chairman, I would like to put on my university hat for a minute. As a university president for 8½ years, there is no more serious problem that the university president has to deal with than alcohol on campus and how to control advertising and how to control access to that.

You have the whole gamut, of course, of age mixtures there, so that obviously, you have a lot of students that are younger than 21 and you have a lot of social kinds of things. So for colleges and universities, it is a very serious problem and causes us great concern.

We, of course, tried to downplay, frankly, and hold down the advertising aspect of that in campus newspapers, but it is very difficult for a university president to do that because those are free-standing kinds of things.

I think that the main role that we can play from the university side is one of education, of trying to point out that this is not the way it should go.

Chairman GLENN. Well, he suggested legal and economic sanctions against universities that do not stop advertising on campus. Do you think that that should be carried out?

Secretary CAVAZOS. Very frankly, that could be one of the approaches, but I think that you are not going to stem the problem just simply by one tactic, as such. You are going to have to use all of these.

Chairman GLENN. That is one step of a lot of things that might be used.

Secretary CAVAZOS. That is one that is very, very strong, obviously, and is going to have impact out there, but I would still maintain that there are other things in addition to that one.

Chairman GLENN. But I am not looking at that. I do not think the Surgeon General looked at that as being the solution to the whole problem, but that was just one of a number of things he suggested that I thought was a very interesting approach.

Secretary CAVAZOS. Well, that would be one that certainly should be considered, frankly. I think we really need to look at that. I will tell you it would have made my life a lot easier as a university president if there were a clear-cut mandate out there.

In one case I remember, we arrived at a football game and here somebody was running up a great big balloon with some ad dealing with alcohol, and I had them run the thing back down again, but that is the kind of thing that we face constantly.

Chairman GLENN. Thank you. My time is up on the second round.

Senator Kohl.

Senator KOHL. Thank you.

Mr. Cavazos, so many of the Surgeon General's recommendations to reduce drunk driving affect the alcoholic beverage and advertising industries. The alcoholic beverage companies in my own State of Wisconsin admit that while they may have made a few mistakes along the way, they want very much to be a part of the solution.

What would you suggest the industry do to reduce drunk driving among teenagers?

Secretary CAVAZOS. I think that, first of all, take that whole issue of advertising right back. It is education. You get right back, Senator, to the whole issue of education. I think that they have a responsibility to educate our young people that, first of all, that they are doing something illegal. People just do not seem to really understand that, that for someone below 21 years of age, that is an illegal drug, and that is the way we are going to continue to see it within the Department.

I would hope therefore—I would expect, I will put it that way, that the beverage industry, those that have the responsibility for advertising in these areas would clearly indicate that point.

Then, the second piece of it is the dangers of the thing. Now, we are starting to see more advertising pointing out the dangers of this. We see the signs in the bars about the effect on pregnancy and some of the other health issues.

Well, I think we need to just kind of mount a massive campaign in this Nation, just pointing out the dangers of all of this stuff. So I think that, yes, it is their responsibility, but it is also our responsibility to continue to be just as vigorous and to continue to push the industry, to say, you must join in this battle. This is terribly important to every one of us.

Senator KOHL. What general advice can you offer today to the millions of parents who worry about alcohol abuse and drunk driving among their kids? What would you suggest their conduct be with respect, for example, to drinking in the presence of their children?

Secretary CAVAZOS. You let me put on my university hat. I will put on my parents' hat for just a minute, as such, because certainly there is nothing that worries a parent more than that whole aspect, because as we are trying to shape youngsters for a lifetime of habit, good habits and direction, that parents of course are the role models.

They are the first that we look to. They are the first teachers, they are the best teachers of any child, far better than any professionally trained teacher.

So, therefore, it is their responsibility to educate those youngsters in terms of the dangers and the problems of alcohol and alcohol abuse. I would submit that, in terms of their personal conduct, you would want them to have the very, very best conduct obviously, as all of us would, in front of our children or anyone else.

But I think that we have not focused enough on involving parents on that educational side. So often in today's world we tend to leave that to the schools, you know, you are supposed to be teaching them mathematics and I have no responsibility for them when they come home to help them with their math. Yes, I do, as a parent. I should be asking them how are you doing, what are your problems, see if we can work some of this out together.

It should be the same way in terms of these drugs, what did you learn about it, are you aware. I really think, therefore, that parents play an important role in that.

As to whether they drink in front of their children or not, I think that those are personal things that they are going to have to make some decisions about, but I want to emphasize for the record today, sir, how vital it is that we involve the parents in this whole area.

The peer pressure, as pointed out by the Chairman, is tremendous out there on those youngsters. The best way to counter negative peer pressure is loving care at home.

Senator KOHL. One other question. You and Mr. Bennett are working on problems which are very similar in our society.

You and he talk a lot, work together a lot, develop joint programs, are in contact all the time, see eye to eye on most everything. How would you describe that important relationship?

Secretary **Cavazos**. It is an important relationship and we have a personal relationship, but we also have, though, of course our relationship at the cabinet level, where we interact there. I see him not infrequently. We talk about the issues of education.

Obviously, you are not going to get the two of us together in a room where we are not going to talk about education very, very quickly. Of course, he has this tremendous problem of having to deal with a much broader area than I have, because ours is much more focused.

So what I try to do and will continue to do, and he has been very, very supportive, is we all recognize that education is going to be an important part of stemming this drug issue and this problem of alcohol and drug abuse.

So, therefore, we intend to continue to work with Mr. Bennett in this area. We have a good working relationship. We do not always see eye to eye on things, but that is in the normal course of the work that we must do.

I think the most important thing that we do, though, is that we bring our people together on both sides. You can spend a lot of time, hours, addressing the issue specifically, so that I think that the main thing that in our case has been more of a catalyst in terms of trying to say that these are important issues and I want you to work on it.

There is no question about it from our departmental side of where we are going.

Senator **Kohl**. Thank you.

Thank you, Mr. Chairman.

Chairman **Glenn**. Thank you, Senator Kohl.

Just one further question. When people either procure alcohol and give them to teenagers or to minors, or permit the sales or who sell alcoholic products to minors, would you favor locking those people up?

Secretary **Cavazos**. Again, here, Senator, this of course is something that courts are going to have to deal with, it gets back to what kind of punishment, and I am not really one that can apply punishments or say this is what it should be, but I favor some very, very stern measures.

If it is the only way you can deter this kind of a thing, if it is the only way, then, yes, I would favor locking them up, or whatever, some judge will make a decision about it. In other words, we need stern, stern measures to address a very serious problem.

Also, in terms of the previous question about working with Mr. Bennett, we co-chair the Commission for Drug-Free Schools, so we will be working together in that aspect. That is one of the areas underneath the total effort. You will find us working very well.

Chairman **Glenn**. Thank you very much, Mr. Secretary. We appreciate it and we would like to keep in touch with you on this as you go along. We will be continuing our interest in this and having succeeding hearings on this as we go along and we appreciate your being with us here this morning. It was very helpful.

Secretary **CAVAZOS**. Thank you very much, Mr. Chairman, and Senator Kohl. I want to thank you, first of all, for inviting me to be here. This is a vital, vital issue and I commend the Senate in moving in this direction. Any way we can help, you just call on us.

Chairman **GLENN**. Thank you. I appreciate that. I just wish we could get everybody as excited about this thing as they get about wars and things like that. We do not seem to be able to do that.

As I said starting out, to try and relate this to something we have all dealt with in years past, every 2½ years alcohol-related deaths on the highway account for the same number of people as were killed in all 10 years of the Viet Nam War, and that got to be a horribly public outcry against that thing, enough that we finally wound up stopping the war.

Here we are; every 2½ years we kill that number of people on the highway, yet because drinking alcohol is social and because it is in the mores, or whatever, we just sort of go along with the highway deaths and we need not do that. We do not have to do that.

What you are involved with is how we educate people against alcohol abuse and we want to cooperate with you every way we possibly can.

Secretary **CAVAZOS**. Thank you, sir.

Chairman **GLENN**. Thank you very much for being here.

Secretary **CAVAZOS**. Thank you, Mr. Chairman, Senator Kohl.

Chairman **GLENN**. On our next panel are Mr. William C. MacLeod, Director, Bureau of Consumer Protection, Federal Trade Commission, FTC, and Diane Killory, General Counsel, Federal Communications Commission.

We welcome you both this morning.

Mr. MacLeod, if you would lead off either with your statement or an abridged version thereof, your statement will be included in the record in its entirety whether you give an abridged version or not. So we welcome you this morning.

Mr. MacLeod, if you would lead off, we would appreciate it.

TESTIMONY OF WILLIAM C. MacLEOD, DIRECTOR, BUREAU OF CONSUMER PROTECTION, FEDERAL TRADE COMMISSION[1]

Mr. **MACLEOD**. Thank you, Mr. Chairman.

Mr. Chairman and members of the Committee: My name is William MacLeod and I am the Director of the Bureau of Consumer Protection of the Federal Trade Commission.

I appreciate the opportunity you have afforded us today to present the statement of the Federal Trade Commission on Government efforts to deal with the serious problem of drunk driving.

Before I begin, let me convey the Commission's appreciation to you and the Committee for bringing the country's attention to the serious problems that we are discussing today, and the Commission also commends the Surgeon General for focusing attention on the issue.

Drunk driving, as you have pointed out, Mr. Chairman, with some very graphic statistics, is a problem that still pervades our society. Almost all of us know someone who has been affected by an alcohol-related automobile crash. More than 40 percent of fatal crashes still involve a legally intoxicated driver, and a disproportionate percentage of highway victims are young people.

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[1] See p. 196 for Mr. MacLeod's prepared statement.

While there is some indication that our young men and women are becoming better informed and more sensitive to the issue, there is still much work to be done.

We at the Federal Trade Commission remain eager to participate in this important endeavor.

Although the Commission has jurisdiction over advertising in general, we are not the only Federal agency with jurisdiction over the advertising of alcoholic beverages. The Bureau of Alcohol, Tobacco and Firearms enforces a set of detailed regulations concerning advertising and labeling of alcoholic beverages.

The FTC, on the other hand, has a more general mandate. Our principal authority derives from Section 5 of the Federal Trade Commission Act, which declares unlawful "unfair and deceptive acts or practices in or affecting commerce."

Under the FTC Act, the Commission considers deceptive an advertisement that makes a material representation or omission that is likely to mislead consumers acting reasonably under the circumstances.

For example, we would consider deceptive an ad which represented a regular beer as "non-alcoholic," an ad that touted the driving skill enhancement properties of an alcoholic beverage. These are the kinds of claims that we would get very excited about at the Federal Trade Commission.

On the other hand, claims about product taste, or advertisements that create moods and images are not deceptive under the terms of Section 5. As you know, much alcohol advertising falls into the latter category of image promotion intended to associate certain images of taste and style with particular brands.

Unfairness under the Federal Trade Commission Act reaches practices that do not necessarily involve misleading advertising, but nevertheless cause, or can cause, unavoidable and substantial injury to consumers.

For example, an ad that urged consumers to drink while driving but contained no deceptive claims would be subject to prosecution under the Commission's unfairness authority in light of the substantial consumer injury associated with such behavior.

Before discussing the recommendations of the Surgeon General's Workshop, I would like to describe some of the FTC's past work in the area of alcohol advertising.

In 1985, the Commission undertook an investigation in response to a petition filed by several organizations which alleged that certain practices should be considered unfair and deceptive because they portrayed alcohol advertising in an appealing manner and were, therefore, likely to lead to consumption by underaged youth and increased alcohol abuse by adults.

In 1985, the Commission's staff concluded an analysis of the petition and of the existing literature in the area on the quantitative effects of alcohol advertising on consumption and abuse.

Based on the staff's findings, the Commission found insufficient evidence to justify initiating an industry-wide rulemaking governing the advertising.

The staff did, however, suggest other ways in which the Government could help reduce the problems associated with alcohol abuse in general, and drunk driving in particular, such as restrictions on consumption, greater and more certain civil and criminal sanctions, facilitating counseling and treatment programs, and conducting research on ways to effectively influence behavior through public service announcements.

The Commission believes that those recommendations remain valid today; in fact, each of them is included among the recommendations of the various Workshop panels.

Let me move on to the recommendations of the Advertising and Marketing Panel now. The Commission believes that advertising is one part of the overall picture concerning drunk driving, which is best understood as a public health and safety problem, and not primarily a matter of promotion.

The Commission appreciates the enormous social costs imposed by alcohol abuse and drunk driving and takes the position that there may be more effective and cost-efficient means for dealing with the problem than through regulation of alcoholic beverage advertising.

One of the Panel's recommendations is that research should be funded to study the effect of alcohol advertising on certain populations—such as underaged youth—and to study which specific features of advertising contribute to higher or lower levels of excessive drinking and alcohol-impaired driving.

Let me just warn the Committee that these questions do not lend themselves to ready answers from empirical research. We have found much of the empirical research in the 1985 study to be ambiguous. It is very hard to derive cause and effect on the basis of this kind of research.

Indeed, in the 1989 Report on Smoking, the Surgeon General noted that the effect of cigarette advertising on smoking is presently unknown and may not lend itself to empirical research.

The Commission believes that we are much more likely to see results from efforts that have shown promise in the past. Those efforts have included Government and privately sponsored public education campaigns, PSAs—public service announcements—pamphlets, billboards, road signs, bumper stickers, radio spots, TV, and talk show appearances.

These efforts, however, appear to be fragmented and uncoordinated. In fact, as the FTC staff noted in the 1985 report, there is no single agency or office at the Federal level that knows who in Government or industry is disseminating what information, how, where, and to whom.

There is no inventory of information regarding the relative effectiveness of specific information campaigns, nor is there any single organization charged with the responsibility to determine the most effective means of communicating with different audiences.

In fact, the FTC staff made a similar finding and recommended in its 1985 report the formation of a committee composed of Government and private sector representatives to collect and evaluate past public information campaigns to determine which types are most effective and to ensure that such campaigns are implemented.

If Congress were to establish such a group, the Commission would be pleased to lend its expertise in the areas of marketing, advertising, and consumer behavior.

On youth-targeted advertising Congress should take note of the possible difficulties in defining statutorily such terms as "a strong appeal to youth" and sponsorships of events "where the majority of the anticipated audience is under the legal drinking age."

The Workshop Panel recommended voluntary steps, rather than legislative restrictions, to prevent promotion directed to those under the legal drinking age. This voluntary approach avoids several practical problems.

Promotional activities on college campuses are often targeted to a population the majority of which may be under 21 and therefore unable to purchase alcohol legally. Promotions that make liquor more accessible to or encourage drinking by this underage group should be of particular concern.

We continue to monitor the promotional practices of breweries on college campuses to determine whether any action by the Commission may be warranted under its unfairness jurisdiction.

The Commission also endorses the Workshop recommendation to restrict advertising that depicts people drinking while engaging in activities that can be dangerous if performed under the influence of alcohol.

The Commission could proceed against such advertising pursuant to its unfairness jurisdiction. We are not, however, aware of any current ads depicting alcohol use in conjunction with such activity. If any such ads exist, we would appreciate having them brought to our attention.

Warning labels on alcohol advertisements might have some potential as a method for reducing alcohol abuse, but once again here is an area where a warning is appropriate for Government policymakers, as well.

According to the Surgeon General's 1989 Report on Smoking, there is some evidence that health warnings can have an impact on consumers under certain circumstances.

It is questionable, however, whether circumstances surrounding drunk driving warrant mandating health warnings in alcohol ads as a method for reducing the problem. First, there already is a high consumer awareness that drinking impairs the ability to drive.

Drunk driving generally is not an issue of information deficiency, but of willful, abusive or risky behavior. For the Government to be effective, it should focus its efforts directly on curbing the inappropriate behavior.

Moreover, we are hearing from communications experts now that the public is becoming "over warned," the consequence of which is that the public increasingly ignores warnings. We need to be very careful in selecting subjects for warnings to consumers, to choose subjects and warnings that consumers will indeed pay attention to.

Finally, you have asked how the FTC plans to implement the Workshop recommendations. Let me reiterate that one of our most important consumer protection missions is to monitor and regulate advertising.

The FTC staff monitors on a national basis advertising in both print and broadcast media. In addition, both competitor and consumer complaints are an importance source of information concerning potentially deceptive or unfair advertisements.

Finally, referrals from other Federal agencies and from State and local consumer protection agencies often are another important source of leads. We continue to welcome these referrals and those from other organizations, including the committees of Congress, of specific alcohol advertisements that may be unfair or deceptive.

We will continue to monitor the advertising both for deception and for unfair practices and for targeting by advertisers of youth under the legal drinking age, and we will initiate law enforcement actions where appropriate.

The Commission also stands ready to assist the Surgeon General and the Advisory Group on Followup Activities, and to contribute in any other way consistent with our statutory mandate to government-wide activities in this area.

Thank you, Mr. Chairman, that concludes my oral presentation and I have a longer written statement that I would like to submit for the record.

Chairman GLENN. It will be included in the record without objection.

Ms. Killory, General Counsel of the Federal Communications Commission.

TESTIMONY OF DIANE S. KILLORY, GENERAL COUNSEL, FEDERAL COMMUNICATIONS COMMISSION [1]

Ms. KILLORY. Thank you.

Good morning, Mr. Chairman and members of the Committee. I am Diane Killory, General Counsel of the FCC. Thank you for allowing us this opportunity to discuss the issues of alcohol abuse and drunk driving as addressed in the Surgeon General's proposal.

The Commission agrees that this is an urgent national problem and we applaud the commitment and efforts of the Surgeon General and this Committee in focusing attention on this issue.

As these hearings reflect, drunk driving and alcohol abuse are real problems in need of real solutions now. We want to work with you to find effective solutions, solutions that can be put into place now.

I think that you all agree it would be counterproductive to enact measures that only hold out the illusion of prompt action, measures that raise constitutional issues resulting in lengthy delays in enforcement while the inevitable court challenges drag on for years.

Certain of the Surgeon General's proposals do touch on the content of radio and television broadcasts. As the Senate is fully aware from its experiences with dial-a-porn and broadcast indecency, constitutional challenges and seemingly endless delays from litigation, rather than prompt enforcement, can result when new ground is broken in content regulation.

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[1] See p. 212 for Ms. Killory's prepared statement.

My intent here today is to offer the Commission's ideas as to how in the broadcast area the Surgeon General's goals can be achieved without becoming entangled and delayed by such constitutional questions.

Before addressing the specifics of the Surgeon General's recent proposals, let me briefly sketch the constitutional context in which those proposals must be viewed.

The First Amendment, one of our most fundamental constitutional protections, prevents the government from restricting or controlling content of the press except in very limited circumstances.

While the First Amendment, of course, first was applied to the print media, and its strictest applications have been in the print context, the history of the electronic media has been one of increasing application of the constitutional guarantee to radio and television.

While somewhat different First Amendment standards remain for print and electronic media, the trend of court decisions seems to be narrowing that gap. In our view, the Supreme Court ultimately will adopt the stricter standard now reserved for the printed press for reviewing all content regulation, print and broadcast, because whatever factual and legal predicates may have previously justified a lesser First Amendment standard for broadcasting, they have since eroded.

We believe, therefore, that any content restrictions you adopt ultimately will have to meet the stricter First Amendment standards that protect the print media and that any such restrictions you adopt should apply across the board to both electronic and print media.

Even if the Court does not adopt a unitary First Amendment standard for print and broadcast media, the current standard for First Amendment review of broadcast content regulation is still a formidable hurdle. In fact, that standard is essentially the same as that currently applied by the courts to all commercial speech, whether print or broadcast.

That First Amendment standard requires:

First, that the content regulation must further a substantial Government interest;

Second, that the regulation must directly advance that interest; and

Third, that the regulation must be narrowly tailored to achieve that goal.

Government action affecting broadcast speech—whether by Congress, the FCC or another agency—must meet all three requirements to pass constitutional muster.

With this background, let me turn to those of the Surgeon General's specific recommendations directed toward the FCC or affecting the broadcast industry. I would note in passing that although the Surgeon General's other recommendations do not fall within our regulatory purview—and, thus, I will not address them today—we strongly applaud the safety and enforcement measures, particularly those directly aimed at alcohol-impaired drivers.

Looking at those recommendations that fall within the FCC's purview, let me begin with those that appear to solicit voluntary efforts of broadcasters and advertisers. The Surgeon General's Report proposes that the affected industries refrain from certain types of alcohol promotion and advertising.

The report also recommends comprehensive news reporting of alcohol abuse and drunk driving issues and the accurate portrayal of these issues on entertainment programming, all on a voluntary basis.

The Surgeon General calls on the affected industries to undertake these actions and to revise their industry codes to incorporate these recommendations.

The Commission fully supports recommendations directed at voluntary efforts by broadcasters or advertisers and we believe that self-regulation can be, by and large, quite effective. But I would sound two cautionary notes.

First, it is important that they be truly voluntary to avoid the constitutional defects and litigation delays that have plagued past attempts to regulate or influence program or advertising content.

Second, the affected industries may need an anti-trust exemption if they are to establish effective industry codes in a lawful manner. That exemption might be along the lines of that proposed in the recent House and Senate legislation regarding television violence.

But while granting an anti-trust exemption is preferable to direct content regulation, it must be noted that such action is not without its own risks. For example, to minimize First Amendment concerns, care would have to be taken in enacting this type of an anti-trust exemption to avoid the appearance of indirect coercion.

But having sounded these cautions, let me say that we believe there is a good deal that broadcasters, as well as the producers who develop the television programs and the advertising companies who produce the beer and wine commercials, can do voluntarily.

As the Surgeon General suggests, broadcasters can make efforts to include in their news coverage stories on the problems of alcohol abuse and its effects. They can do so in their public affairs and news interview programs, as well.

Producers of television programs and movies—both television and theatrical—likewise can attempt to accurately portray the effects of drinking and driving, and they can write designated drivers into their scripts so they become an ordinary part of social life.

Advertisers, finally, can take steps to bifurcate drinking and driving, both by positive statements and by ensuring that their own ads do not depict these two activities together.

I have observed examples of all of these on television, but I agree with the Surgeon General that even more of these efforts would be desirable.

Again, however, in our view these efforts should be voluntary. To the extent that the Surgeon General's Report suggests that the FCC should mandate that the industry establish these guidelines, then the FCC's actions will pass muster only if they meet the applicable three-prong test that I described earlier. For the reasons that are detailed in my written testimony, it is not clear that the test could be met.

To the extent the Surgeon General's Report suggests that the Commission "encourage" industry cooperation or adoption of these guidelines, this too could be viewed by some as the equivalent of a Government mandate.

This is because the FCC is the same governmental body that decides whether to renew broadcast licenses. As such, courts actively have discouraged Commission regulation by "raised eyebrow," without meeting the procedural and substantive requirements that normally attach to agency rulemaking.

Again, at a minimum, such action surely would be held up in court for years.

Once beyond the realm of voluntary action by broadcasters and advertisers, if the Government were to mandate, explicitly or indirectly, content requirements, the constitutionality of that action unquestionably would be challenged.

Such government mandates would cast the FCC or other agencies as the ultimate arbiter of broadcast content, making editorial decisions as to which shows, commercials, and even which news and public affair shows are appropriate.

Even if a court applied the somewhat more lenient First Amendment standard for broadcasting and for commercial speech, there is a question, as I have spelled out in my written testimony, whether such Government regulation would pass constitutional muster. At a minimum, it would be a close enough question that a court would likely delay enforcement while litigation is pending.

Let me turn to the second group of recommendations in the Surgeon General's Report which clearly require Government action. Besides the kind of content regulation I have just discussed, the recommendation most relevant to the FCC's jurisdiction is mandating equal time or Government funding for pro-health and safety messages.

We assume that the Surgeon General, by his equal time recommendation, is proposing that Congress adopt legislation toward this end. The Commission today enforces the congressionally mandated equal time requirements for political candidates. The Commission likewise will enforce any legislation passed here.

But requiring broadcasters to provide equal time for alcohol-related messages will certainly raise enough constitutional problems to tie up enforcement in court and ultimately may not pass muster.

By contrast, the Surgeon General's proposal that the Government allocate funds to produce and purchase time for counter-advertising and for pro-health and safety public service announcements does not appear to raise the same constitutional concerns, because it does not attempt to mandate what broadcasters must air.

I note that the broadcasters indicated last week in their testimony to you that they would, in fact, voluntarily air such spots free of charge. I would further note that private and public interest groups can also fund the production of counter-advertisements.

The combination of Government and private spots would help assure that the dangers of alcohol abuse are conveyed in advertisements without raising the First Amendment concerns of equal time requirements. We therefore endorse this recommendation.

Finally, with respect to the Surgeon General's third group of proposals in our purview, we fully support further research and public education on drunk driving and alcohol abuse.

We understand that the National Commission Against Drunk Driving is currently conducting a massive federally funded survey on the effectiveness of anti-drunk driving efforts. These should yield valuable information on this subject.

Because the results of any such studies would presumably apply to advertisements on all communications media, there is no reason to limit the Government's efforts to the FCC's domain of broadcasting in other electronic media.

I therefore return to one of my initial suggestions: that whatever Congress adopts, it should apply to both the electronic and print media.

To summarize our views, we believe that the goals of the Surgeon General's Report on Drunk Driving would be best achieved through the voluntary efforts of the media and advertising industries, as well as through the formation of public or private organizations that would produce public service announcements and purchase advertising time—and space in the print media—to distribute such information. The Government could, of course, fund these efforts.

Once the Government moves beyond those kinds of efforts, constitutional challenges are guaranteed. The Government's hurdles in overcoming such a challenge are high and even if they can be met, which is a question, any such actions by the Government at a minimum run substantial risk of being stayed by a court while the battle is litigated—and that could take years.

Because drunk driving is a very real problem now, we strongly urge the Congress not to take any action that would delay possible solutions. Thus, to avoid both delay and constitutional difficulties, we recommend that Congress support voluntary efforts by the electronic as well the print media, by program producers, and by advertisers.

Again, thank you for this opportunity to present the Commission's views on this important issue.

Chairman GLENN. Thank you very much, Ms. Killory. Let me just follow up on your comments here.

You have used the word voluntary quite a number of times here. Is that to be the FCC's policy, that everything is to be volunteerism? You have the license power. Are you going to deny licenses to those who do not voluntarily do this?

Ms. KILLORY. Well, Senator, if it were the law, then the FCC in fact would be mandated to take action if broadcasters did not comply. But it would no longer be voluntary. Our concern is that even if in the long run, after a long court battle, these laws were held ultimately to be constitutional—and that is a question that ultimately the courts have to decide—delay would be the inevitable result.

That is exactly the result from Congress' efforts to have the FCC enforce the broadcast indecency and dial-a-porn prohibitions.

Our concern is in getting some solutions now. So, if through voluntary efforts these same results can be achieved without the delay of litigation, then we think that would be the better result.

Chairman GLENN. Do you really seriously believe that all this volunteerism is going to occur now and solve this problem? If anything, the advertising has gone up and up and up, the commercials are on and on and on, more and more and more sports figures, more and more and more of everything, and you are talking volunteerism as a solution to this thing, when everything is going in the other direction. This just makes FCC into a toothless tiger, as I see it.

Ms. KILLORY. Well, Senator, I believe that some voluntary efforts have begun. I think that the NAB talked about some of them. I think we have begun to see the beer and wine advertisers have their own anti-abuse messages. But, of course, more could still be done.

Chairman GLENN. That has been a number of years. That is not anything new.

Ms. KILLORY. But it may be increasing and could be increased more. And we do see some new things. We see Alex Keaton on "Family Ties" talk about being the designated driver. Children look to those characters as role models, and to the extent that these concepts can be written into scripts, that is desirable.

But to have the FCC be the judge of whether, in terms of content, there has been an appropriate display, that gets into very serious difficulties both from a First Amendment constitutional perspective——

Chairman GLENN. Well, let me address that. Let me talk about the commercial free speech here, because I think we are into maybe a new day here, and I am not sure that everybody is keeping up with this.

Did you follow the *Posadas* decision in 1987?

Ms. KILLORY. Yes.

Chairman GLENN. In the majority opinion for the Court, the Supreme Court found that Puerto Rico State—but it could just as well be the Federal Government—had the right to prohibit advertisements for a casino even though gambling is legal.

Now, Justice Rehnquist wrote that opinion. The Chief Justice of the Supreme Court wrote that opinion and he specifically mentioned alcoholic beverages in the same category with gambling, cigarettes, and prostitution as activities or products deemed harmful to the public, whose advertisements could therefore be constitutionally restricted.

Now, you disagree with the Chief Justice?

Ms. KILLORY. I do not disagree with the Chief Justice, Senator, but I have looked at that case very carefully to see whether it could be directly applied to this issue, so that any litigation could be quickly resolved, and I think there are a number of fundamental differences.

This does not necessarily tell you how such litigation would be decided, but it certainly means that there will be long litigation.

The first difference that is important, or that could be important in this case, is the difference between the State and the Federal Government. There, Justice Rehnquist stated that it was important that the State could have prohibited the underlying activity: it could have prohibited casino gambling. Therefore, he said, the State ought to be able to prohibit its advertisement.

But because of the Twenty-first Amendment to the Constitution, it is not, by my reading, within Congress' authority to simply ban consumption of alcohol. So this factor that Justice Rehnquist found important in the *Posadas* case is not present here.

Chairman **Glenn**. I disagree. The Federal Government has the authority if they wanted to use it to ban alcohol. We did that in the days of prohibition. Now, nobody is proposing that we go back to that, but we have the authority, just as Puerto Rico had the authority, but we choose not to exercise that authority as Puerto Rico chose not to exercise its authority with gambling. What is the difference?

Ms. **Killory**. Well, I think there is a question as to whether the Twenty-first Amendment, which was passed after Prohibition days, was not intended to reserve the power to the States to prohibit alcohol consumption. That is the way I read the Twenty-first Amendment.

There is another difference, though, between the *Posadas* case and here.

Chairman **Glenn**. Permitted local option, but the Federal Government never gave up its ability to mandate what kind of a situation there would be all over the country.

Ms. **Killory**. Well, there is another difference between the *Posadas* case and here, and again it does not necessarily mean that the result would be such a law here would be declared unlawful, but it would put it in question.

That is, the Court made very clear in *Posadas* that the intended goal of that prohibition was to prevent the local residents from gambling at all. They were not just concerned with those who would gamble and abuse gambling; they were concerned that they not gamble at all.

Here, as you have just said, it is not Congress' intent that no one in America consume alcohol. The concern is alcohol abuse. So that is an extra link. A court may not be willing to assume that there is a direct effect, and the regulation must directly advance the governmental interest in order to pass constitutional muster. So, again, at least it is a question that is going to delay this matter in litigation.

Chairman **Glenn**. I just do not agree with you on what the Court did on that at all, because here is the Justice's own words right here in his opinion. He says, "legislative regulation of products or activities deemed harmful, such as cigarettes, alcoholic beverages, and prostitution has varied from outright prohibition, on one hand, to legalization of the product or activity with restrictions on stimulation of its demand, on the other hand."

Then, they cite a number of instances where this has been done at the bottom of the page there, with alcohol advertising restrictions and state laws that have been upheld. I do not see how it could be any more clear than that.

Ms. **Killory**. Well, State laws have been upheld in some instances, but States have clear authority under the Twenty-first Amendment. In addition, there the concern was the use of alcohol, as opposed to drunk driving, which is one step removed.

In addition, it actually becomes easier—this is sort of ironic—but it may become easier from a First Amendment perspective when the statute or regulation at issue is a ban as opposed to regulation. The latter is more difficult because if you are talking about whether something is accurately portrayed, that gets the government into making subjective content decisions.

The FCC went through a very lengthy proceeding where we concluded just that, in reevaluating the fairness doctrine. We concluded that even though the doctrine had a laudable purpose, the subjective content judgments by the Government in enforcing the doctrine caused detrimental side effects. As a result, our net analysis was that the public interest was harmed, and the Court of Appeals affirmed our decision.

Chairman GLENN. My time is up on this first round. I would just say that I wish we lived in a more perfect world where your volunteerism would do the job and where we do not have to do anything else, but I do not think we live in that kind of a world.

Senator Kohl.

Senator KOHL. Mr. MacLeod, some people think that an anti-trust exemption for the industry may not be necessary at all, that the broadcasters and advertisers can get together on their own without fear of anti-trust exposure.

Do you think that an anti-trust exemption is indeed necessary, or do you think that while it may not be necessary, it would provide the industry with a cushion of comfort and absolute assurance that they could establish industry guidelines if those chose to do so?

Mr. MACLEOD. Well, anti-trust exemptions always provide a cushion of comfort. The problem that the Federal Trade Commission has with anti-trust exemptions is that they often provide too much comfort and they end up disserving the interests of consumers.

But to answer the first half of your question, I think that self-regulatory efforts can take place under the anti-trust laws as they exist today. The industry does not need an anti-trust exemption to engage in a wide variety of useful self-regulatory measures designed to assure that their advertising does not contravene public policy.

I encourage the industry, as I encourage most industries that we regulate, to adopt self-regulatory procedures to that end.

Senator KOHL. And you believe they can do so without any anti-trust exemption?

Mr. MACLEOD. I think that they can do a great deal without an anti-trust exemption. Obviously, the industry needs to be aware of anti-trust issues, but these are the kinds of issues on which their lawyers are fully capable of providing guidance.

Senator KOHL. You say in your testimony that no single agency coordinates the dissemination of information on alcohol abuse among the various Federal agencies. In fact, you note that the FCC supports the creation of a public-private partnership to coordinate campaigns against drunk driving.

It seems to me that any effort to coordinate our educational efforts would be more effective if we allow the industry to participate. I believe that most people in the advertising and broadcast industry truly want to promote responsible drinking.

They have told me that they want to help and they have told this Committee last week that they want to help, and I believe them.

In your opinion, Mr. MacLeod, how important is it to include industry representatives in any efforts to coordinate campaigns against drunk driving?

Mr. MacLeod. I think it is very definitely a sound idea and almost indeed necessary to the effort to involve the industry. We simply do not have the resources and we do not have the money, and we do not have the imagination and the creativity that the industry can bring to these kinds of efforts.

I want to see the industry there. I want to see the industry there doing more than they are doing today. I think that they can make a contribution.

I would like to respond just briefly to the idea that volunteerism is not as effective as it might be. I think that it is very worthwhile to point out that we are seeing progress in this area. Compared to 5 years ago, a number of the statistics are showing a fall, and I think that a lot of this fall can be attributed to the voluntary cooperation that has taken place so far.

I think we have scratched the surface. I think we can go far deeper with it and I would like to see that happen.

Chairman Glenn. Can you give us some examples of that volunteerism?

Mr. MacLeod. Well, we have, for example, significant expenditures on such things as voluntary campaigns. The Ad Council has run a long-standing campaign to warn about drunk driving.

I have not seen precise figures broken down for alcohol as opposed to other substance abuse, but the industry has estimated that they have spent as much as a billion dollars on the education, the public service announcements, and the other efforts that they undertake to enlighten the public about substance abuse.

I think that this is exactly the kind of thing that we ought to be encouraging from the industry.

Senator Kohl. Would you suggest that industry and broadcast media people are doing a good job in this respect? You think about it all the time. You come here to give us some expert opinion, which it is. What would you suggest we conclude this morning as we think about the efforts that are in place, in progress, how would you comment on them at this moment?

Mr. MacLeod. I think that the industry and the media are doing indeed a good job. I am not saying it is a perfect job. More can be done, but I think they are doing a good job. The clearance offices in the networks, for example, are very demanding in the standards that they impose upon all advertising, and especially beer advertising, and I think that that effort has achieved a great deal of success.

Senator Kohl. Ms. Killory, suppose we granted an anti-trust exemption to the broadcast and advertising industries to allow them to develop standards for alcohol advertising and for depictions of alcohol abuse; and suppose, further, that such an exemption did not require the industry to do anything; Congress is currently considering a similar exemption with regard to depictions of illegal drug abuse and violence on TV.

Do you think that this would be an appropriate approach for Congress to take?

distributes materials we produce to parents, students, educators, and other interested parties. Specialists in the field carefully examine all publications the Clearinghouse distributes to ensure that they contain a strong no-use message for alcohol and other drugs. We also distribute copies of all of our alcohol and other drug prevention materials to schools operated by both the Bureau of Indian Affairs and the Department of Defense.

We have been actively involved during the last two years in assisting the National Association for Children of Alcoholics (NACoA) with their elementary school project. This assistance has taken the form of financial backing and the dissemination of materials, particularly, the group's new guide, It's Elementary. This booklet, which provides detailed information about issues that children of alcoholics must deal with, has been distributed to public elementary schools across the country.

Finally, we are also in the process of developing drug and alcohol prevention materials for use during the early childhood years. We know that today's toddlers will be tomorrow's drivers and we don't want them to be among the Surgeon General's statistics.

For the last few minutes I have talked about many of the initiatives that we are planning for the future or those that we have just recently completed, but now, I would like to address our continuing policy regarding not only drinking and driving but the use of alcohol by our young people. The policies of the Department of Education are not only consistent with the education recommendations of the Surgeon General but in some cases, go one step further, or in others, were already advocated by the Department in our section of the White House Conference For A Drug Free America's Final Report (I am enclosing a list of those recommendations for the record--several of which were already enacted by Congress under the Anti-Drug Abuse Act of 1988 passed last November).

The Department of Education's policy, explicitly stated in Schools Without Drugs, is no use of alcohol for those under 21. It is worth noting that over two million copies of this publication have been distributed and foreign governments have even asked permission to translate it! As our principal policy statement on alcohol and drug prevention education, a word about Schools Without Drugs is in order. Schools Without Drugs features a readable and practical synthesis of the most reliable and significant findings available on alcohol and drug use by school-age youth. This handbook tells how use of illicit substances starts and progresses; how it can be identified; and how extensive and dangerous such use is. This publication also describes strategies that particular schools have used successfully to curb drug and alcohol use by young people, and lists resources and organizations that parents, students, and educators can turn to for help. We have just revised this successful publication to reflect the latest scientific evidence about the effects of alcohol and drugs and to focus attention on alcohol as the drug of choice of America's youth. Two new sections dealing specifically with alcohol have been added to the handbook and other portions of the text have been revised to give additional emphasis to the hazards of alcohol use by young people. All of the model programs that we cite in Schools Without Drugs have a comprehensive alcohol policy not limited to drunken driving. The policies that we endorse for schools treat possession or use of alcohol as a serious offense calling for strong disciplinary action, notification of parents, and, often, obligatory counseling for the student.

The Department has consistently encouraged the development and strict enforcement of strong school policies against the use of alcohol and other illicit drugs by students. As part of its support for such policies, the Department instituted the Drug-Free Recognition Program two years ago. This program seeks out and nationally recognizes schools that have exemplary alcohol and drug abuse programs. Last year there were thirty winners and this year there are forty seven schools that have successfully prevented, or substantially reduced, illegal drug and alcohol use by students. This year's winning schools were recognized earlier this week by President Bush in a ceremony at the White House. The national recognition that these schools receive not only gives the schools and communities credit for their impressive accomplishments, but serves as a source of inspiration and hope to others.

We strongly believe that in regard to drug and alcohol abuse, we have a duty to educate our students for life and not just in regard to one component of their behavior however important that behavior may be. In harmony with this belief, we advocate that all alcohol and drug education be begun in kindergarten and continued through 12th grade. And, in addition, that prevention be taught not just in health classes but be infused into the general curriculum--be taught in chemistry, in biology, in economics, and in English. Furthermore, we, like the Surgeon General, advocate comprehensive, community efforts in which parents, educators, students, and other members of the community join together to combat alcohol and other drug use. As Secretary of Education, and as a parent, I strongly urge parents to be involved in alcohol and other drug prevention efforts at their children's schools, and in their communities. One idea that has had success in combatting drug and alcohol use among our youth is asking parents to sign pledges promising to supervise parties at their homes and to forbid the presence or use of any alcohol or drugs on their premises. School officials collect the names of the parents who have signed the pledge and then distribute them to all parents who have children at the school.

We also support creative measures to prevent young people from driving under the influence such as the legislation that was originally passed in Oregon and has now spread to several other states. This legislation allows the State to withdraw for a year the driver's license of any 16-18 year old for a drug or alcohol offense, or to delay the teenager's eligibility for a license for a year if he or she is not yet old enough to have one.

I am pleased to say that we share information about such innovative programs as this one with parents, schools, and other groups around the country in our Challenge Newsletter, a publication that espouses the no use philosophy of Schools Without Drugs, and provides teachers, parents, and students with the latest information or tips on drug prevention education. More than 350,000 copies of this Newsletter are distributed once every two months during the school year.

Finally, with regard to the funds that the Department of Education distributes on a formula grant basis to the States, my staff continues to monitor programs that are being supported at the local level to ensure that they contain a strong no-use message for alcohol and drugs. We are also conducting a national study to determine how States and localities are implementing their programs and to recommend ways that they can judge their programs' performance and success. We intend to make sure we are doing all we can to help schools and communities combat alcohol and other drug use by young people.

Before concluding, I would like to mention that in part, as a result of the Department of Education's support for the White House Conference for a Drug-Free America's Final Report, several State legislatures around the country have passed laws requiring present and future teachers to have drug and alcohol prevention certification and different professional accrediting groups either have, or are, considering doing the same for their members. I mention this specifically because this is a case in which not only do the Surgeon General's recommendations coincide with our own, but where the recommendations of another national report to which we were privileged to contribute have had a strongly favorable reception and have been quickly acted upon. I very much hope that this will be the case for the Surgeon General's education recommendations.

I would be pleased to answer any questions you may have.

STATEMENT

OF

FEDERAL TRADE COMMISSION

PRESENTED BY

WILLIAM C. MACLEOD
DIRECTOR, BUREAU OF CONSUMER PROTECTION

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
OF THE
UNITED STATES SENATE

June 21, 1989

Mr. Chairman and Members of the Committee: Good Morning. My name is William MacLeod, and I am the Director of the Federal Trade Commission's Bureau of Consumer Protection. I appreciate the opportunity to appear before you today on behalf of the Federal Trade Commission to discuss governmental efforts to deal with the serious problem of drunk driving. Before I begin, let me convey the Commission's appreciation to you and the Members of this Committee for your continued attention to the problems associated with alcohol misuse and abuse. The Commission also commends the Surgeon General for focusing attention on the drunk driving problem and for providing a forum for the discussion of possible actions to address it.

Drunk driving is a problem that pervades our society. Almost all of us know someone who has been affected by an alcohol-related automobile crash. More than 40% of all fatal crashes involve a legally intoxicated driver. In addition, a disproportionate percentage of highway victims are young people. For example, in 1987, nearly 27% of all fatally-injured 15 to 19 year-old drivers were intoxicated.[1] And while there is some indication that our young men and women are becoming better informed and more sensitive to the issue, there is still much work to be done.

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[1] U.S. Department of Transportation, National Highway Traffic Safety Administration, Drunk Driving Facts: National Center for Statistics and Analysis (Aug. 1988).

We at the Federal Trade Commission remain eager to participate in this important endeavor. The FTC was not one of the government representatives named to the Federal Advisory Group on Followup Activities for the Workshop,[2] but we stand ready and willing to do our part to assist in government-wide efforts to address the drunk driving problem.

Although the Commission has jurisdiction over advertising in general, we are not the only federal agency with jurisdiction over the advertising of alcoholic beverages. Under the Federal Alcohol Administration Act of 1935 ("FAA Act"),[3] the Bureau of Alcohol, Tobacco and Firearms ("BATF") enforces a set of detailed regulations concerning the advertising and labeling of alcoholic beverages. For some time now, BATF has been conducting a rulemaking proceeding to revise these regulations,[4] and it has recently promulgated regulations to implement legislation requiring health warnings on alcoholic beverage containers.[5]

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[2] U.S. Department of Health and Human Services, Surgeon General's Workshop on Drunk Driving: Proceedings, at vii (1989).

[3] 27 U.S.C. §§ 201 et seq. (1988 Supp.).

[4] For example, BATF will reportedly take action this year addressing such matters as the use of "light" or "lite" on alcoholic beverage labels, the allowable number of food additives in wine, and a reduction in the upper limit for sulfites. Food Chemical News, p. 13 (May 1, 1989).

[5] BATF issued a temporary rule, 54 Fed. Reg. 7160 (1989)(to be codified at 16 C.F.R. Pts. 4, 5, 7, and 16),

(continued...)

The FTC, on the other hand, has more general responsibility for protecting consumers. Its principal authority derives from Section 5 of the FTC Act,[6] which declares unlawful "unfair and deceptive acts or practices in or affecting commerce." An important part of the Commission's consumer protection mission under Section 5 is the monitoring and regulation of national advertising. Before taking action under Section 5, whether by prohibiting claims or requiring disclosures, the Commission must find that the advertisements in question are deceptive or unfair.

The Commission presently lacks authority to issue industry-wide rules in the advertising area based on its unfairness jurisdiction.[7] This restriction remains in effect pursuant to the FTC's appropriations act.[8] While the Commission does have authority to issue industry-wide rules based on deception theory, such a rulemaking would not seem

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[5] (...continued) pursuant to the Alcohol Beverage Labelling Act of 1988, Title VII of the Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 481. At the same time, BATF issued a separate Notice of Proposed Rulemaking seeking comment on the temporary rule. 54 Fed. Reg. 7160 (1989).

[6] 15 U.S.C. § 45 et seq. (1988 Supp.).

[7] Federal Trade Commission Improvements Act of 1980, Pub. L. No. 96-252, § 11(b), 94 Stat. 374, 379 (1980).

[8] Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989, Pub. L. 100-459, 102 Stat. 2186, 2217 (Oct. 4, 1988).

warranted in the area of alcohol advertising absent evidence of widespread deceptive conduct.

Under the FTC Act, the Commission considers deceptive an advertisement that makes a material representation or omission that is likely to mislead consumers interpreting the ad reasonably under the circumstances.[9] Under its deception jurisdiction, the Commission typically pursues objective product claims -- i.e., those that can be verified. Thus, an ad misrepresenting a regular beer as "non-alcoholic" would be subject to review and challenge under the Commission's deception authority. On the other hand, claims about product taste, or advertisements that merely create moods or images, are unlikely to be challenged as deceptive. As you know, Mr. Chairman, much alcohol advertising falls into the latter category of image promotion intended to associate certain images of taste and style with particular brands.

Unfairness is a broader concept than deception. It reaches practices that do not necessarily involve misleading representations, but nevertheless cause, or can cause, unavoidable and substantial injury to consumers.[10] For example, if an ad urged consumers to drink while driving but contained no apparently deceptive product claims, it would be subject to analysis under the Commission's unfairness jurisdiction in light of the substantial consumer injury associated with such behavior.

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[9] See, e.g., Thompson Medical Co., 104 F.T.C. 648 (1984), aff'd, 791 F.2d 189 (D.C. Cir. 1986), cert. denied, 107 S. Ct. 1289 (1987). See also Letter from the Federal Trade Commission to Hon. John D. Dingell, Chairman, Committee on Energy and Commerce, United States House of Representatives reprinted at 103 F.T.C. 174 (1983) ("Deception Statement").

1985 FTC INVESTIGATION AND REPORT ON THE EFFECTS OF ALCOHOL ADVERTISING

Mr. Chairman, before discussing the recommendations of the Surgeon General's Workshop on Drunk Driving, I would like to describe some of the FTC's past work in the area of alcohol advertising. In 1985, the Commission undertook an investigation in response to a petition filed by several organizations and individuals to consider increased regulation of certain alcohol marketing and advertising practices. The petitioners urged that even where advertising does not expressly misrepresent attributes of alcoholic beverages, certain practices should nevertheless be considered unfair and deceptive because they portrayed alcohol consumption and abuse in an appealing manner and were, therefore, likely to lead to consumption by underage youth and increased alcohol abuse by adults.

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[10] See International Harvester, 104 F.T.C. 949 (1984); see also Commission Statement of Policy on the Scope of the Consumer Unfairness Jurisdiction, Commission letter to Senators Danforth and Ford (December 17, 1980), reprinted at 104 F.T.C. at 1070-76.

In 1985, the Commission's staff concluded an analysis of the petition and of the existing literature on the quantitative effects of alcohol advertising on consumption and abuse. Based on the staff's findings, the Commission found insufficient evidence to justify initiating an industry-wide rulemaking to consider banning or otherwise restricting alcohol advertising as the petition had proposed and, accordingly, denied the petition.

The staff's analysis, however, did suggest other ways in which government activity could help to reduce problems associated with alcohol abuse in general, and drunk driving in particular. These suggestions included restrictions on consumption, imposing greater and more certain civil and criminal sanctions, facilitating counseling and treatment programs, and conducting research on ways effectively to influence behavior through public service announcements ("PSAs"). The Commission believes that those recommendations remain valid today; in fact, each of them is included among the recommendations of the various Workshop panels.[11]

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[11] See also 1987 Economic Report of the President, at 187-88, suggesting that higher alcohol prices resulting from increased excise taxes or other measures might reduce drunk driving fatalities.

THE RECOMMENDATIONS OF THE ADVERTISING AND MARKETING PANEL

In the remainder of my testimony I will discuss the recommendations for government action proposed by the Advertising and Marketing Panel.[12] The Commission believes that advertising is one part of the overall picture concerning drunk driving, which is best understood as a public health and safety problem and not primarily a matter of promotion. The Commission appreciates the enormous social costs imposed by alcohol abuse and drunk driving and takes the position that there may be more effective and more cost-efficient means for dealing with the problem than through regulation of alcoholic beverage advertising.

Research

One of the Panel's recommendations is that research should be funded to study the effect of alcohol advertising on certain populations -- such as underage youth -- and to study which specific features of advertising contribute to higher or lower levels of excessive drinking and alcohol-impaired driving. These questions do not lend themselves to ready answers from empirical research. In a similar context, in his 1989 Report on Smoking, the Surgeon General noted that the effect of cigarette advertising on smoking is presently unknown and may not lend itself to empirical research.[13] Thus, the Commission believes that we are much more likely to see results from efforts that have shown promise in the past.

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[12] The recommendations deal exclusively with the problem of drunk driving and not with other social problems caused by drinking, such as alcoholism in general. Therefore, we confine our remarks to drunk driving.

Since the early 1970s, public education campaigns have been considered an important part of national efforts to reduce or prevent alcohol-related problems. In addition to PSAs, a variety of other communications strategies have been used by federal agencies,[14] state and local governments, and voluntary and industry groups, including pamphlets, billboards, road signs, bumper stickers, radio spots, and TV talk show appearances.

These efforts, however, appear to be fragmented and uncoordinated. In fact, as the FTC staff noted in its 1985 report, there is no single agency or office at the federal level that knows who in government or industry is disseminating what information, how, where, and to whom. There is no inventory of information regarding the relative effectiveness of specific information campaigns.[15] Nor is there any single organization charged with the responsibility to determine the most effective means of communicating with different audiences. In fact, the FTC staff made a similar finding and recommended in its 1985 report the formation of a committee composed of government and private sector representatives to collect and evaluate past public information campaigns to determine which types are most effective, and to ensure that such campaigns are implemented.

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[13] U.S. Department of Health and Human Services, Reducing the Health Consequences of Smoking: 25 Years of Progress. A Report of the Surgeon General, at 512-513 (1989). Furthermore, economic modeling of advertising is difficult because advertising is only one of many influences on consumer purchase decisions.

[14] These agencies include the Department of Health and Human Services, the National Highway Transportation Safety Board, the National Institute on Alcoholism and Alcohol Abuse, and the BATF.

Precedent exists for this approach in the Cigarette Safety Act of 1984, which established both an interagency committee and a technical study group.[16] Therefore, the Commission supports the strategy recommended by the Panel of creating a coalition of public and private organizations to provide focus for and promote coordination of campaigns to stop drunk driving. If Congress were to establish such a group, the Commission would be pleased to lend its expertise in the areas of marketing, consumer behavior and information processing, and economic analysis.

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[15] As Dr. Charles Atkins noted in his report to the Advertising and Marketing Panel, the research literature evaluating the effects of drunk driving prevention campaigns is very meager. Surgeon General's Workshop on Drunk Driving: Proceedings, supra, at 9. Despite millions of dollars spent on campaigns over the last fifteen years, very little has been learned about the role of mass communications in reducing drinking and driving.

[16] The mandate of the group was to study and undertake other activities to determine the technical and commercial feasibility, economic impact and other consequences of developing cigarettes with a minimum propensity to ignite upholstered furniture. The Committee was required to report its analysis and policy recommendations to Congress within 32 months of enactment. See Cigarette Safety Act of 1984, 15 U.S.C. § 2054 (1988 Supp.).

Youth-Targeted Advertising

In the area of youth-targeted advertising, the Workshop recommendations focus on voluntary steps that could be taken to prevent promotion directed to those under the legal drinking age, rather than on legislative restrictions. In considering what action to take, Congress should take note of the possible difficulties in defining statutorily such terms as "a strong appeal to youth" and sponsorship of events "where the majority of the anticipated audience is under the legal drinking age."[17] Thus, the approach the Panel recommends may avoid several practical problems.[18]

Promotional activities on college campuses, however, are necessarily targeted to a population the majority of which may be under 21 and therefore unable to purchase alcohol legally. Promotions that make liquor more accessible to or encourage drinking by this underage group should be of particular concern. We continue to monitor promotional practices of breweries on college campuses to determine whether any action by the Commission may be warranted under its unfairness jurisdiction.

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[17] See Surgeon General's Workshop on Drunk Driving: Proceedings, supra, at 28-29.

[18] For example, it would be difficult to define in advance when an audience at a widely attended event would contain a majority of underage people.

While noting our concern about industry promotional practices on college campuses, I should mention also in fairness the beneficial programs now funded by alcohol industry members on such campuses. For example, the industry has supported campus organizations in their efforts to minimize hazards from the misuse of alcohol, such as Students Against Drunk Driving and the Designated Driver Program, and has occasionally included anti-abuse messages in its advertising to students. The Commission believes the government should encourage the continuation of such private efforts, while taking steps to ensure that advertising and promotional activities do not target this underage group.

Alcohol Advertising that Portrays Activities When Combined with Alcohol Use

The Commission also endorses the Workshop recommendation to restrict advertising that depicts people drinking while engaging in activities that can be dangerous if performed under the influence of alcohol. As stated above, the Commission could proceed against such advertising pursuant to its unfairness jurisdiction. We are not, however, aware of any current ads depicting alcohol use in conjunction with such activity. If any such ads exist, we would appreciate in having them brought to our attention.

Warning Labels in Alcohol Beverage Advertisements

Warning labels on alcohol advertisements might have potential as a method for reducing alcohol abuse. According to the Surgeon General's 1989 Report on Smoking, there is some evidence that health warnings can have an impact on consumers under certain circumstances.[19]

It is questionable, however, whether the circumstances surrounding drunk driving warrant mandating health warnings in alcohol ads as a method for reducing the problem. First, there is already a high consumer awareness that drinking impairs the ability to drive. Drunk driving generally is not an issue of information deficiency, but of willful abusive or risky behavior.[20] For the government to be effective, it should focus its efforts directly on curbing the inappropriate behavior.

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[19] The warnings can be effective if designed to take account of factors that influence consumer response to warning labels (*e.g.*, a consumer's previous experience with the products, previous knowledge of the risks associated with the product, and education and reading levels) and if the labels are designed effectively (*e.g.*, visible format and providing specific rather than general information). *Reducing the Health Consequences of Smoking. 25 Years of Progress. A Report of the Surgeon General*, *supra*, at 478. Some studies, however, have noted the limitations of government-mandated health warnings. For example, in research on the rotational health warnings in cigarette and smokeless tobacco ads, an eye-movement study examined the effect of the warnings in magazine ads on a sample of 61 adolescents. More than 40 percent of the subjects did not view the warning at all; another 20 percent looked at the warning but did not read it. Fischer, *et al.*, "Recall and Eye Tracking Study of Adolescents Viewing Tobacco Advertising," *Journal of American Medical Association*, 261(1): 84-89 (1989).

Moreover, some communications experts caution that the public generally is feeling "over warned" by the government. These experts suggest that people are increasingly ignoring warnings because they feel they cannot heed the recent avalanche of warnings.[21] Therefore, it would seem prudent to avoid overuse of one of the government's most important forms of health alert -- a general health hazard warning -- if it is possible to communicate the information as effectively through other means.[22]

Finally, you have asked how the FTC plans to implement the workshop recommendations. Let me reiterate that one of our most important consumer protection missions is to monitor and regulate advertising. The FTC staff monitors national advertising in both print and broadcast media on a regular basis. In addition, both competitor and consumer complaints are an important source of information concerning potentially deceptive or unfair advertisements. Finally, referrals from other federal agencies and from state and local consumer protection agencies often are another important source of leads. We continue to welcome such referrals from these -- or any other organization -- of specific alcohol advertisements that may be unfair or deceptive. We will continue to monitor alcohol advertising, both for deception and for any unfair targeting by advertisers of youth under the legal drinking age, and will initiate law enforcement actions as appropriate. As I emphasized at the outset, the Commission also stands ready to assist the Surgeon General's Advisory Group on Followup Activities, and to contribute in any other way consistent with our statutory mandate to government-wide activities in this area.

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[20] Bureau of Alcohol, Tobacco and Firearms, Final Report of Findings of Research Study of Public Opinion Concerning Warning Labels on Containers of Alcoholic Beverages Conducted for the U.S., Vol. I, Table 5, at 34 (Dec. 1988).

[21] A. Etzioni, An Addendum to the Fetal Alcohol Syndrome Public Awareness Campaign: Progress Report Concerning the Advance Notice of Proposed Rulemaking on Warning Labels on Containers of Alcoholic Beverages and Addendum, Department of the Treasury and the Bureau of Alcohol, Tobacco and Firearms.

[22] U.S. Department of the Treasury and U.S. Department of Health and Human Services, Report to the President and the Congress on Health Hazards Associated with Alcohol and Methods to Inform the General Public of these Hazards, at 41 (Nov. 1980).

CONCLUSION

In conclusion, the Commission appreciates the opportunity to be appear today and to emphasize that it is ready and eager to participate in the government's enhanced efforts to tackle the national problem of drunk driving.

We know that the percentage of accidents due to drinking has decreased steadily in the last seven years in spite of an increase in alcohol advertising.[23] We believe this is due in large part to the public education programs that have been carried out in the schools, communities and the media. The Commission supports the formation of a committee of government and private sector representatives to determine which public education strategies have proven to be the most effective in curbing drunk driving, and to ensure that these strategies are implemented on a nationwide basis.

Thank you.

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[23] Surgeon General's Workshop on Drunk Driving: Proceedings, supra, at 14.

TESTIMONY OF DIANE S. KILLORY

GENERAL COUNSEL

FEDERAL COMMUNICATIONS COMMISSION

Before the

SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

Hearing on

"AVERTING ALCOHOL ABUSE"

NEW DIRECTIONS IN PREVENTION POLICY

June 21, 1989

Good morning, Mr. Chairman and Members of the Committee. First let me thank you for allowing the Federal Communications Commission this opportunity to discuss the issues of alcohol abuse and drunk driving. The Commission agrees that this is a serious national problem that needs to be addressed now. We applaud the commitment and efforts of the Surgeon General and your Committee in focusing attention on this problem, and we want to work with you to find effective solutions.

We also want to help you find solutions that do not raise constitutional questions -- so that actual enforcement will not be delayed, as court battles drag on and on for years. Drunk driving is a real problem in need of real solutions now. As the Senate is fully aware from its experiences with dial-a-porn and broadcast indecency, delay from litigation is exactly what can happen when new ground is broken in content regulation.

With that preface, let me very briefly review the constitutional principles that govern this area, before addressing the specifics of the Surgeon General's recent proposals. In that way, we can then examine the proposals to identify which ones present constitutional issues that could spur litigation and delay.

The First Amendment prevents the government from restricting or controlling content of the press except in very limited circumstances. Our democracy was founded on this notion and it has worked well for two centuries. Although the particular issue being considered here -- drunk driving -- is a very sympathetic one, I would urge great caution before considering stepping onto the slippery slope of content regulation as a possible solution.

While First Amendment constraints apply to both the electronic and printed press, courts have applied a stricter standard when reviewing control of the printed press. The FCC, however, after a lengthy inquiry, concluded a few years ago that whatever factual and legal predicates previously justified a lesser First Amendment standard for broadcasting have since eroded. Thus, the Commission has proposed that a traditional First Amendment analysis be applied to content regulation of broadcasting, just as it is to the printed press.

Applying a traditional First Amendment analysis does not mean that all content regulation is forbidden. It does mean that content regulation will be upheld under the First Amendment only if:

(1) the regulation furthers a compelling government interest;

(2) the regulation directly advances that interest; and

(3) the regulation is no more extensive than necessary to achieve the interest.

In our view, this is the standard the Supreme Court will adopt, ultimately, for reviewing all content regulation. Thus, your bill will be guaranteed continued constitutionality if it meets the stiffer standard. We propose, therefore, that, at a minimum, whatever restrictions you adopt you apply across the board to both electronic and print media.

But even the lesser standard currently applied in reviewing broadcast content regulation is hardly de minimus. In fact, that standard is essentially the same as that applied to commercial speech, although for different reasons. It requires that:

(1) the content regulation must further a substantial government interest;

(2) the regulation must directly advance that interest; and

(3) the regulation must be narrowly tailored to achieve that goal.

Any government action affecting broadcast speech -- whether by Congress, the FCC or another agency -- must meet each of these requirements to pass constitutional muster.

With this background, I now turn to the Surgeon General's specific recommendations either directed toward the FCC or affecting the broadcast industry. These can be divided into three general categories -- (1) those that appear to solicit the voluntary efforts of broadcasters and advertisers, (2) those requiring government action, such as the adoption of equal time rules for counteradvertising, and (3) those directed toward advertising research. Although the Surgeon General's other recommendations do not fall within our regulatory jurisdiction or purview, we nonetheless applaud those safety and enforcement measures that are directly aimed at alcohol-impaired drivers.

Beginning with the voluntary measures, the Surgeon General's report proposes that the affected industries refrain from certain types of alcohol promotion and advertising, including advertising on college campuses, the sponsorship of certain events by the alcohol industry, and advertising that portrays activities that are dangerous when combined with alcohol use. The report also recommends comprehensive news reporting of alcohol abuse and drunk driving issues and the accurate portrayal of these issues on entertainment programming, all on a voluntary basis. In order to implement these various measures, the report suggests that the Surgeon General will request the affected industries to undertake these actions and to revise their industry codes to incorporate the recommendations.

The Commission fully supports feasible recommendations directed toward voluntary efforts by broadcasters or advertisers and believes that self-regulation can be, by and large, quite effective. But I would sound two cautionary notes. First, it is important that they be truly voluntary to avoid the constitutional defects and litigation delays that have plagued past attempts to regulate or influence program or advertising content. Second, the affected industries may need an antitrust exemption if they are to establish effective industry codes in a legal manner, similar to the exemption proposed in the recent House and Senate legislation regarding television violence. Therefore, some congressional action may be necessary in this area to facilitate voluntary compliance.

Although granting an antitrust exemption is preferable to direct content regulation, such action is not without its own risks. For example, care must be taken in enacting this type of antitrust exemption to avoid the appearance of indirect coercion so as to minimize First Amendment concerns.

Having sounded these cautions, however, let me say that we believe there is a good deal that broadcasters, as well as the producers who develop the television programs and advertising companies who produce the beer and wine commercials, can do voluntarily. As Surgeon General Koop suggests, broadcasters can make efforts to include in their news coverage stories on the problems of alcohol abuse and its effects. They can do so in their public affairs and news interview programs as well. Producers of television programs and movies (both television and theatrical) can likewise attempt to accurately portray the effects of drinking and driving -- and they can write designated drivers into their scripts so that they become an ordinary part of social life. Advertisers, finally, can take steps to bifurcate drinking and driving -- both by positive statements and by ensuring that their own ads do not depict the two together. I have observed examples of all of these on television, but I agree with the Surgeon General that even more of these efforts should be encouraged.

Again, however, in our view these efforts should be voluntary. To the extent that the Surgeon General's report suggests that the Federal Communications Commission should mandate that the industry establish these guidelines, the FCC's actions will then pass muster only if they meet the applicable three-prong test described above and, as I will discuss, it is not clear that the test would be met. To the extent the Surgeon General's report suggests that the Commission "encourage" industry cooperation or adoption of guidelines, this too could be viewed by some as the equivalent of a government mandate. This is because the FCC is the same body that decides whether to renew broadcast licenses. As such, courts have questioned Commission regulation by "raised eyebrow," without meeting the procedural and substantive requirements that normally attach to agency rulemaking. See, e.g., Writers Guild of America, West, Inc. v. American Broadcasting Cos., Inc., 609 F.2d 355 (9th Cir. 1976), cert. denied, 449 U.S. 824 (1980) (court raised First Amendment concerns regarding the Commission's "jawboning" with network executives and the NAB to reduce the amount of violence and sex in television programming through self-regulation). Again, at a minimum, such action would surely be held up in court for years.

If the government were, nonetheless, to mandate (or effectively mandate) certain content requirements, the constitutionality of that action would surely be challenged. Even if we apply the more lenient standard for broadcasting and commercial speech, it is not clear that government regulation would pass constitutional muster here. At a minimum, it is a close enough question that a court would likely delay enforcement while litigation is pending.

Although the goal of eradicating drunk driving is no doubt a substantial government interest, and hence would meet the first prong, it is not quite so clear that all of the proposed requirements would meet the second prong -- that is, that they would directly further the goal of eradicating alcohol abuse, as distinguished from alcohol use. Studies conducted by the NAB and FTC, for example, call into question any assumed nexus between beer and wine advertising and alcohol abuse. We don't have any record at the FCC either to support or to contest whether a nexus exists. My point here is that care must be taken to persuasively establish a nexus between content regulations and the interest to be served. The courts have not hesitated to strike down FCC content regulations where we lacked evidence that the rule would in fact achieve or directly further the intended goal.

In addition, such regulations may have difficulty meeting the third prong -- that they be narrowly tailored -- if more narrow restrictions, as opposed to outright prohibitions on advertising, can achieve the same goal. If, as suggested by one FTC staff study, it is true that public service announcements against drunk driving and weaving positive role models into television shows (such as when Alex Keaton was the designated driver on a recent "Family Ties" episode) are equally if not more effective means to reduce alcohol abuse, then advertising bans would unlikely be viewed by a court as narrowly tailored. Again, let me emphasize that we don't have the answer to this factual question. But we can flag the potential constitutional problems for you.

Furthermore, in evaluating the narrowness of restrictions, it must be recognized that prohibiting beer and wine from being advertised on college campuses could effectively ban these advertisements altogether. Televisions and radios are found on campuses and in student dorms and receive local broadcast signals. Because it would be technically impossible to delete ads on university radios and television receivers selectively, the net effect of such a rule would be a total ban, which a court would unlikely find to be narrowly tailored.

The second group of recommendations in the Surgeon General's report requires governmental action. Besides the kind of content regulation just discussed, the recommendation most relevant to FCC jurisdiction is mandating equal time or government funding for pro-health and safety messages. We assume that the Surgeon General, by this recommendation, is proposing that Congress adopt legislation. While the Commission enforces the equal time requirements for political candidates, that is a legislative requirement. The Commission will likewise enforce any legislation passed here. But requiring broadcasters to provide equal time for alcohol-related messages will certainly raise enough constitutional problems to tie up enforcement in court and may not pass muster ultimately -- for many of the same reasons I detailed a moment ago.

By contrast, the Surgeon General's proposal that the government allocate funds to purchase time for counteradvertising or for pro-health and safety public service announcements does not appear to raise the same constitutional concerns, because it does require the broadcasters to sell time. Indeed, a court might view this alternative as more narrowly drawn than equal time requirements, thereby calling into question the constitutionality of the latter. I would also note that private and public interest groups can also purchase commercial air time to counter alcohol advertisements. The combination of government and private spots would help assure that the dangers of alcohol use are conveyed in advertisements without raising the First Amendment concerns of equal time requirements. We therefore endorse this recommendation.

Finally, with respect to the Surgeon General's third group of proposals, we fully support further research and public education on drunk driving and alcohol abuse. We understand that the National Commission Against Drunk Driving is currently conducting a massive federally funded survey on the effectiveness of anti-drunk driving efforts, which should yield valuable information on this subject. I note, however, that the Commission itself has neither the expertise nor the resources to conduct or supervise the types of advertising and promotional research recommended by the Surgeon General's report. Unlike the FTC, we have not looked into the effects of alcohol advertisements on alcohol abuse, and we generally defer to the FTC on advertising matters. Because the results of any such studies would presumably apply to advertisements on all communications media, there is no reason to limit the government's efforts to the FCC's domain of broadcasting.

To summarize our views, we believe that the goals of the Surgeon General's report on drunk driving would be best achieved through the voluntary efforts of the media and advertising industries, as well as through the formation of public or private organizations that would produce public service announcements and purchase advertising time -- or space in the print media -- to distribute such information. The government could fund these efforts. Once the government moves beyond voluntary efforts, constitutional challenges are guaranteed. The government's hurdles in overcoming such a challenge are high and it is not clear to us that they could be met. But, in any event, any action by the government would likely be stayed by a court while the battle is fought in court -- and that could take years. Because drunk driving is a very real problem now, we strongly urge the Congress not to take any action that would delay embarking on a solution. Thus, in the interest of avoiding both delay and constitutional infringements, we recommend that Congress support and encourage voluntary efforts by the electronic as well as the print media, by program producers, and by advertisers.

Again, thank you for this opportunity to present the Commission's views on the Surgeon General's recent report on drunk driving.

COMMENTS OF THE AMERICAN ASSOCIATION OF ADVERTISING AGENCIES ON ALCOHOLISM PREVENTION BEFORE THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

JUNE 21, 1989

The American Association of Advertising Agencies (A.A.A.A.) appreciates the opportunity to comment on the Surgeon General's final recommendations to combat drunk driving as they relate to the advertising industry.

The American Association of Advertising Agencies (A.A.A.A.) is the national association of the advertising agency business. The A.A.A.A. represents more than 760 advertising agencies across the country. Combined, our member agencies account for more than 80 percent of all national advertising placed by agencies, as well as a substantial amount of local and regional advertising.

The A.A.A.A. recognizes the serious problem of alcohol abuse and drunk driving in society today. We share the Surgeon General's concern about this problem and have participated continuously in programs designed to educate the consuming public about the responsible use of alcoholic beverages.

Through our membership on the Board of Directors of the Ad Council, the A.A.A.A. has been instrumental in creating advertising campaigns that warn against various forms of alcohol abuse, including driving while intoxicated. Our member agencies have contributed time, creative expertise and financial resources to bring national attention to this problem. Their public service announcements (PSA) convey a powerful message that excessive drinking is unacceptable, dangerous, and quite simply, "uncool." The impact of the PSA message is further advanced by the A.A.A.A. agency member/Ad Council collaboration. Due to the caliber of the television spots and the hard-hitting message, the campaign has received extensive media support. For instance, the drunk-driving campaign created in late 1983 received a media expenditure of nearly $112,000,000 over a three-year period. This combination of agency talent and significant media backing has undeniably helped increase awareness of the drunk-driving problem and contributed to the statistical decline of the number of alcohol-related traffic fatalities.

The alcohol beverage category is already heavily regulated by Federal agencies, such as the Bureau of Alcohol, Tobacco and Firearms (BATF) and the Federal Trade Commission (FTC). As a matter of social responsibility, the A.A.A.A. recognizes that the advertising of alcoholic beverages merits special consideration by those involved. Therefore, we believe that, in addition to being truthful and non-deceptive, alcoholic beverage advertising should reflect the following guidelines:

- **Advertising should not promote excessive consumption of the product.**

- **Advertising should not be targeted at individuals younger than the legal drinking age.**

- **Advertising should not depict inebriation or excessive revelry.**

- **Advertising should not condone the use of the product in conjunction with activities requiring skill or mental alertness.**

- **Models and actors should be, and clearly appear to be, over 25 years of age.**

The development of these voluntary standards reflects a conscientous effort to discourage product misuse. Furthermore, the advertising industry abides by its own self-regulatory agency, the National Advertising Division of the Council of Better Business Bureaus. We join the Surgeon General in his appeal for all segments of the alcohol industry to exercise proper judgment in the sale and marketing of alcoholic products. It is through voluntary measures, not government-imposed regulations, that the public's interest will be best served and alcoholism prevented.

As the Surgeon General stated in his press conference on May 31st, two-thirds of Americans consider themselves drinkers. For the consumer, advertising plays an important role in providing information about alcoholic beverages. There is no evidence that this advertising prompts people to start drinking or has any effect on the per capita consumption of alcohol. Instead, advertising communicates information designed to influence brand choice and to introduce new products, such as wine coolers and low-alcohol beer. Advertising also provides valuable information about pricing and packaging. It is illogical and inappropriate to deny consumers access to truthful information that assists them with their purchase decisions.

We recognize that the problem of alcohol abuse is complex and penetrates all areas of society. The only successful way to address alcoholism is to confront the socio-economic, psychological and possibly genetic factors that can be directly linked to the behavior. The subjective and arbitrary singling out of advertising as major contributing cause of alcohol abuse is unsupported by research. Further, the recommendations would deny alcohol producers the opportunity to distribute information via advertising, and would deny consumers the right to receive it. Clearly this is in conflict with the constitutional right of free speech. On this note, we address some of the recommendations of the Surgeon General's December Workshop on Drunk Driving.

From the onset, the A.A.A.A. questioned the biased nature of the Workshop on Drunk Driving panels, particularly the panel on "Advertising and Marketing." It lacked representation from advertisers, advertising agencies and the broadcast media. Approximately one month before the Workshop was scheduled to commence, the A.A.A.A. requested that the Surgeon General delay the Workshop or balance the panels with equal representation. Neither step was taken until four working days before the Workshop was to begin. The A.A.A.A. was then invited to participate but declined due to inadequate preparation time. Furthermore, it was only after the threat of a lawsuit that the Surgeon General opened the Workshop to non-invited individuals and allowed for comments from concerned parties.

Although we commend the Surgeon General for investigating and addressing the drunk-driving issue, the method in which he conducted the task leaves much to be desired. When only one side of a story is told, the outcome, inevitably is slanted. The Workshop recommendations assume a false correlation between alcohol advertising and alcohol abuse and ignore the legitimate interests of both producers and consumers of a legal product.

The recommendations we address herein are insufficiently sensitive to the legal strictures applicable in the area of commercial advertising, and appear to ignore the substantial body of evidence demonstrating that they will in all likelihood be ineffective. No doubt the failure of the Workshop to appreciate these aspects arises from its composition. As previously mentioned, the Workshop did not include representatives from alcoholic beverage advertisers, the broadcast networks, the advertising agency business or other organizations with special expertise in the area of advertising.

The recommendations we address fall into three broad areas:

- restricting the use of advertising (e.g., eliminating the official sponsorship of the broadcasting of athletic events);
- increasing the cost of advertising (e.g., eliminating the tax deductions for alcohol advertising); and
- mandating some form of counter-advertising.

The A.A.A.A. strongly opposes any such measures for two specific reasons.

First, such restrictions are clearly unconstitutional.

Second, The Workshop's proposals on advertising would not help solve the problem of drunk driving.

As With All Advertising, Alcoholic Beverage Advertising Is Protected by the First Amendment.

At least since 1976, it has been clear that commercial speech is protected by the First Amendment. In that year, the Supreme Court explained the value of informing the public regarding their purchase decisions, recognizing that advertising serves a useful function in permiting the public to select the products they truly want.[1] Later, in the 1980 Central Hudson decision, the Supreme Court further explained that the Constitution protects commercial speech because "it not only serves the economic interest of the speaker, but also assists consumers and furthers the societal interest in the fullest possible dissemination of information."[2]

Clearly, it is fundamental to both our government and our economy that people can be trusted to make wise decisions if they have access to all relevant information. Many of the Workshop recommendations are intended to limit commercial speech, with a resultant diminution of the First Amendment rights of alcoholic beverage advertisers and consumers. The Supreme Court has constructed a four-part test to be used in deciding whether a restriction on commercial speech is narrow enough -- and necessary enough -- to pass constitutional muster.[3]

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[1] Virginia State Board v. Virginia Citizens Consumer Council, 425 U.S. 748 (1976).

[2] Central Hudson Gas & Electric Corp. v. Public Service Commission, 447 U.S. 557, pp. 561-562. (1980).

> First, does the commercial speech concern a legal activity and is it truthful?
>
> Second, does the government have a substantial interest in the restriction?
>
> Third, does the restriction directly advance the government interest?
>
> Fourth, is the proposed restriction the least restrictive way to advance directly that substantial government interest?

This test from Central Hudson is stringent: the First Amendment requires that it not be easy. Many of the Workshop's recommendations fail to meet this constitutional muster.

"Fair time counter-advertising" or "equivalent exposure" recommendations are certainly not the least restrictive manner to further the government's interest in curtailing drunk driving. Such requirements would place an impossible burden on media to provide, or manufacturers to buy, advertising space to run such messages. There is no evidence to prove that equal time exposure would directly advance the government interest.

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[3] Central Hudson, 447 U.S. 557 at 561-562

Based upon the overwhelming weight of research that fails to show a connection between alcoholic beverage advertising and alcohol abuse, Workshop recommendations to eliminate various types of advertising fail to directly advance the government interest, the third point required by Central Hudson. In addition, advertising restrictions are not the "least restrictive" means to accomplish the government's goal. In fact, there are many alternative ways to cause a decrease in drunk driving that are less restrictive of commercial speech.

Many do not restrict First Amendment rights at all, and have already been recognized previously by the government as proper. In President Reagan's proclamation designating December 11 through December 17, 1988, as National Drunk and Drugged Driving Awareness Week, he mentioned quite a few "less restrictive" ways, including:

- appointing task forces;
- increasing law enforcement efforts;
- public and private safety campaigns; and
- citizen-sponsored safe ride programs.

President Reagan further pointed out:

> "In 1987, the proportion of motor vehicle fatalities in which at least one driver or pedestrian was legally intoxicated was 40 percent.

> **That figure is down from 46.3 percent in 1982. Another significant achievement was among intoxicated teenager drivers, whose involvement in fatal crashes declined to 18.7 percent in 1987, down from 21 percent in 1986 and 28.4 percent in 1982."[4]**

Those are significant decreases and they were achieved with no restrictions on commercial speech.

Restrictions on Alcoholic Beverage Advertising Would Not Help Solve the Problems of Drunk Driving.

The purpose of the Surgeon General's Workshop on Drunk Driving, according to the initial outline, is "to assist the Surgeon General in the development of a national plan to reduce death and injury stemming from impaired driving." It is fair to conclude that recommendations coming from the Workshop should address that stated purpose.

Unfortunately, the advertising-related recommendations proposed by the Workshop will not achieve their intended effect of reducing drunk driving. And there is no credible evidence that alcohol advertising causes alcohol abuse or drunk driving.

Those who condemn alcohol advertising and wish to restrain it subscribe to a simple, lineal theory: alcohol advertising increases alcohol consumption which increases alcohol abuse which increases drunk driving. But the theory has a basic flaw: it's wrong. It is not supported by research data, empirical evidence or previous studies. But despite the evidence, country after country has tried to affect alcohol consumption by limiting the advertising of alcoholic beverages and found such restrictions to have little, if any effect.

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[4] Presidential Document, Proclamation 5918 of December 5, 1988, cited in the Federal Register, Vol. 53, No. 235, pp. 49287-49288, December 7, 1988.

Studies on the effects of alcoholic beverage restrictions in British Colombia and Manitoba, Canada, and the USA showed no substantial link between advertising and consumption.[5]

Another study, by the University of Texas at Austin, examined "the effect of alcohol advertising expenditure level on alcoholic beverage consumption in the U.S. over a twenty-one year period" from 1964 to 1984. Their research stated that "the findings indicate that advertising expenditure levels have no important relationship with aggregate consumption."[6]

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[5] WATERSON, M.J., "Advertising and Alcohol Abuse", a report published by the Advertising Association, 1983, p. 10 citing two separate studies--OGBOURNE, A.C. and SMART, R.G., "Will Restrictions on Alcohol Advertising Reduce Alcohol Consumption?", The British Journal of Addiction, Vol. 75, 1980, pp. 298-296 and SMART, R.G. and CUTLER, R.E., "The Alcohol Advertising Ban in British Colombia: Problems and Effects on Beverage Consumption", The British Journal of Addiction, Vol. 7, 1976, pp. 13-21.

In France, imports of whiskey rose from 157,000 proof gallons in 1957--the year whiskey advertising was banned--to 6,294,000 proof gallons in 1979. The ban, having proved ineffective, was then lifted.[7]

The Federal Trade Commission (FTC), ruling on a petition to ban alcoholic beverage advertising, stated, "our staffs' review of the literature regarding the quantitative effect of alcohol advertising on consumption and abuse found *no reliable basis to conclude that alcohol advertising significantly affects consumption, let alone abuse*."[8]

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[6] WILCOX, G.B., Franke, G.R. and Vacker, B. "Alcoholic Beverage Advertising and Consumption in the United States: 1964-1984," Department of Advertising Working Papers, the University of Texas at Austin, p. III, January 1986.

[7] WATERSON, M.J., "Advertising and Alcohol Abuse", : a Report published by the Advertising Association, 1983, p. 10.

[8] CRAWFORD, C.T. and GRAMM, W.L. writing in the cover memo to "Omnibus Petition for Regulation of Unfair and Deceptive Alcoholic Beverage Advertising and Marketing Practices (Docket No. 209-46)", Federal Trade Commission, p. 2, March 6, 1985, (emphasis added).

Since the Workshop's intended goal is to reduce drunk driving and nearly all existing research literature finds no connection between alcoholic beverage advertising and alcohol abuse, Workshop recommendations calling for advertising restrictions are poorly conceived and invalid.[9]

CONCLUSION

The A.A.A.A. urges the Workshop panelists, media, legislators and the Surgeon General to examine the issues of alcohol abuse and drunk driving on an objective and factual basis. The problems of alcohol abuse and drunk driving must be addressed; as President Reagan noted, "This is no time for complacency."[10]

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[9] The recommendations include:

- o eliminating the use of celebrities;
- o eliminating official sponsorship of the broadcasting of athletic events;
- o eliminating alcohol advertising on college campuses;
- o eliminating the deductibility for some advertising expenses and;
- o eliminating advertising sponsorship or promotion of certain public events

[10] Presidential Document, Proclamation 5918 of December 5, 1988, cited in the Federal Register, Vol. 53, No. 235, pp. 49287-49288, December 7, 1988.

But neither is it a time for unconstitutional or empty solutions. The panelists' commitment to a drunk driving solution is admirable, but their proposals related to advertising are ill-directed and off target.

The A.A.A.A. stands ready to gather its resources--creativity, time, energy, public service advertisements--to help battle the serious problems of drunk driving and alcohol abuse. But we will not support any proposals which seek to reduce alcohol abuse by means of unconstitutional--and ultimately fruitless--restrictions.

Dated: June 21, 1989

Respectfully submitted,

AMERICAN ASSOCIATION OF
ADVERTISING AGENCIES, INC.

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The American Advertising Federation
Testimony before
The Senate Government Operations Committee
June 21, 1989

The American Advertising Federation appreciates the opportunity to testify before the committee on the critical issue of drunk driving. We believe it is important that the committee receive public reaction to the recommendations of the advertising and marketing panel of the Surgeon General's Workshop on Drunk Driving held December 14-16, 1988 in Washington, DC. The AAF is the only national organization which represents all facets of the advertising industry including the media, corporate advertisers, advertising agencies, over 42,000 local advertising professionals, and nearly 5,000 students on 170 college campuses. The advertising industry is committed to the fight against drunk driving and alcohol abuse. Our industry has developed many effective public service campaigns designed to combat this national tragedy, and the media contribute over one billion dollars annually of free time and space to disseminate them to the American public.

AAF has closely followed the activities of the workshop, and we provided the Surgeon General with our views several times. Prior to the workshop, we provided Surgeon General Koop with comprehensive research which demonstrates that there is no evidence of a link between alcoholic beverage advertising and abuse. After the workshop concluded we filed specific comments on the preliminary recommendations. In addition we contacted General Koop and offered to sponsor a meeting between him and industry representatives to discuss strategies whereby advertising can be used as an even greater tool in the reduction of death and injury from drunk driving.

AAF applauds Surgeon General Koop for helping to focus national attention on this tragic issue, and we accept his invitation to work with him and his successor on effective educational programs. We believe it is signficant that during his May 31 news conference, he did not recommend ad bans or eliminating advertising tax deductions for alcoholic beverages. Rather he called for the industry to voluntarily respond to his recommendations. Above all he did not call for, or request, Congressional action. We agree with the Surgeon General that the only appropriate, and Constitutionally sound way to deal with drunk driving is through the cooperative action of all parties, including the industry, media, public, educators and the office of the Surgeon General.

However, despite General Koop's conclusions, the original recommendations of the workshop have been published and forwarded to the Congress without his qualifications. The published recommendations also make no mention of the fact that they did not have the unanimous support of the panel, or that numerous dissenting comments were filed with the Surgeon General. AAF believes that it is appropriate, therefore, to comment on all of the Advertising and Marketing panel's recommendations, and not just those which were qualified and endorsed by General Koop.

The panel's recommendations are inherently flawed in that they are predicated on the assumption that there is a causal link between alcohol advertising and drunk driving and other forms of abuse. However, prior to the workshop, AAF provided the Surgeon General with two comprehensive studies that, after surveying all of the research, conclude there is no evidence of any such link.

The Federal Trade Commission reviewed the issue of the impact of alcohoic beverage ads in 1985. After reviewing numerous empirical studies and analyzing relevant law, the FTC Staff recommended denial of a petition, which had sought Commission regulation of alcoholic beverage advertising and marketing. In the accommpanying memorandum, the Directors of the Bureau of Consumer Protection and Bureau of Economics stated, "Our staffs' review of the literature regarding the quantitative effect of alcohol advertising on consumption and abuse found no reliable basis to conclude that alcohol advertising significantly affects consumption, let alone abuse."

Similarly, over the twenty year period 1964 - 1984, Univerisity of Texas researchers found no correlation between alcoholic beverage advertising and consumption. On the contrary, they state that "total consumption peaked in 1981 and has slightly declined while total advertising expenditures have experiences considerable increases from 1976 through 1984." Further the researchers "found no support for the contention that a broadcast advertising ban or a total advertising ban for alcoholic beverages would reduce aggregate alcoholic beverage consumption in the United States."

AAF requests that both of these studies be inserted into the record of these hearings.

AAF urges Congress not to take action on alcholic beverage advertising without adequate evidence based on empirical studies. All too often advertising is blamed for societal ills, and ad restictions are proposed as remedies for significant health problems.

Sound public policy dictates that regulations be based on appropriate and reliable evidence. Moreover, the First Amendment to the U.S. Constitution demands that government regulations of truthful commercial speech be based on such evidence and analysis.

In Central Hudson Gas and Electric v. Public Commission of New York (1980), the Supreme Court laid out the minumum standards that the government must meet in order to regulate truthful commercial speech for a lawful product. The regulation must: 1) serve a substantial government interest; 2) directly advance that interest; and 3) be no more extensive than necessary to serve that interest.

Clearly, the advertising and marketing restrictions of the workshop cannot meet this constitutional test. Since, as existing studies establish alcoholic beverage advertising does not contribute to abuse, then restrictions on that advertising will obviously have no effect on drunk driving.

At least two members of the Advertising and Marketing Panel recognized this lack of evidence. In his background paper for the panel, Dr. Charles Atkins states, "empirical evidence assessing mass communication is underdeveloped and often methodologically flawed."

Panelist Michael Mazis submitted a minority report dissenting from many of the panels recommendations. According to Mazis:

> The majority view is that advertising restrictions should be implemented as soon as possible, even though little or no research evidence exists on the effects of some of these proposed restrictions. The minority view is that additional research is needed because untested advertising restrictions may produce unintended negative consequenses. Moreover, ineffective solutions will result in lost time and ultimately more drunk driving deaths.

AAF requests that Dr. Mazis minority report be inserted into the record of these hearings.

AAF would also like to comment on specific recommendations of the panel.

B-1 Match the level of alcohol advertising with equivilant exposure for effective pro-health and safety messages to provide more complete and accurate information.

The AAF has always held that the proper and most effective solution to this or any public safety or health problem lies primarily in education, providing consumers with more information, not less. However, we must point out a number of problems.

First, what exactly does equivilant exposure mean? Is it equal time? an equal number of spots? or is equivilancy measured on a monetary basis? Are moderation messages in alcoholic beverage advertisements also considered counter-advertisements?

Second, the recommendation does not recognize what the industry is already doing. The Ad Council has succesfully placed anti-drunk driving messages in national and local media, as well as in many outdoor locations. The National Association of Broadcasters estimates that broadcasters alone contribute approximately $1 billion annually in anti-substance abuse airtime and community outreach programs. In addition, advertisers are increasingly including moderation messages within the advertisements themselves.

Third, this recommendation will have constitutional problems should if it ever reach the point of government mandated counter-advertising. The First Amendment prohibits the Government from requiring that the industry run anti-drunk driving messages.

Finally, the recommendation could actually be counter-productive and unfair to many other worthy causes. The media has only a limited amount of time to devote to Public Service Announcements. An increase in drunk driving and other alcohol abuse messages will ultimately result in a reduction of messages for other causes, including AIDS education and prevention, promoting literacy, and disouraging illegal drug use. While the AAF does not oppose government funded counter-advertisements, they could also have the unintended effect of reducing the total number of messages. In theory paid messages in conjunction with public service campaings could significantly increase the total number of messages. In reality, however, much of the free time and service will disappear with the advent of a paid campaign.

B-2 Eliminate alcohol advertising and promotion on college campuses where a high proportion of the audience reached is under the legal drinking age.

AAF certainly does not advocate directing alcoholic beverage advertising towards minors. However, a significant proportion of the population on college campuses, including upperclassmen, graduate students and faculty, are of legal drinking age. It would be unfair to these consumers, as well as to advertisers, to prohibit any product advertising on college campuses.

Secondly, this recommendation has many adminstrative problems. Many forms of advertising found on campuses are not limited to the campus. These include magazines, newspapers and broadcast advertisements. Additionally, the recommendation would have little effect because areas immediately adjacent to campuses would not be subject to the ban.

B-3 Eliminate alcohol advertising and promotion and sponsorship of public events (e.g., musical concerts, athletic contests), where the majority of the anticipated audience is under the legal drinking age.

This recommendations imposes an unrealistic burden on the sponsors of these events by expecting them to know in advance the age of every attendee at the event. Televised events would be impossible to monitor. As with college campuses, eliminating advertising in these events would deny information to a significant number of consumers. Finally, many of these entertainment events depend upon sponsorship for survival. Eliminating sponsorships could mean the elimination of many of these events.

B-4 Eliminate official sponsorship of athletic events (e.g., the Olympics) by the alcoholic beverage industry.

This recommendation would have unintended negative consequences. Many athletic events depend upon sponsorship for survival. Banning sponsorships would lead to the elimination of many of them, denying them to the whole public. Any proposal to eliminate alcoholic beverage advertisements during televised athletic events would end televised coverage of many events, ultimately eliminating the event completely. Viewers do not pay to see most televised athletic events. They are available because of truthful advertising of legal products. Without such sponsorships, sports fans might find themselves having to pay to attend theaters and auditoriums, as is the case with many professional boxing matches.

B-5 Eliminate alcohol advertising and promotion that portray activities that can be dangerous when combined with alcohol use.

AAF does not condone advertising that portray dangerous activities in conjunction with alcohol use, and is unaware of any such ads. The television networks have effective pre-clearance standards that prevent such ads.

B-6 Eliminate the use of celebrities who have a strong appeal to youth in alcohol advertising and promotion.

It is impossible to draw a line between celebrities who appeal to youth and those who appeal to adults. Most celebrities who do appeal to youth also appeal to those of legal drinking age. In addition, this recommendation discriminates against any celebrity who is judged to appeal to youth.

B-7 Eliminate tax deductions for alcohol advertising and promotion other than price and product advertising.

Any action to isolate one industry and remove its business tax deductions is blatantly disriminatory. This recommendation would impose increased costs on one category of speech due to the content of its message. It would have the same effect as a direct tax on alcoholic beverage advertising.

The proposal is doubly unconstitutional. It cannot meet the Central Hudson test of directly advanceing a govermental interest. In addition, the Supreme Court has stated clearly that discriminatory taxation of speech is unconstitutional. "It is seen to be a deliberate and calculated devise in the guise of a tax to limit the circulation of information." Grosjean v. American Press Co. (1936).

During his May 31 press conference, Surgeon General Koop did not ask for elimination of the business tax deduction for alcoholic beverage advertisements. In fact, in response to questioning, he specifically stated that he did not want to eliminate the deduction.

B-8 Warning labels, now required (as of November 1989) on alcoholic beverage containers, should also be required, clearly and conspicuously, in all alcohol advertising.

AAF does not believe that advertisments are the appropriate place, or an effective vehicle, for this type of information. As the Congress recognized in the Food and Drug Act, the product label is the most effective and appropriate place for this type of information. Congress only recently required that warnings be put on product labels, and the law has not even gone into effect yet. The government cannot require labels in advertisements before assessing the effectiveness of the label warnings, or establishing that they would be effective against drunk driving.

AAF believes that the key to altering behavioral decisions lies in providing more information, not less. Public awareness of this problem has increased in recent years. It is signficant, therefore, that the Center for Disease Control figures indicate that between 1982 and 1987 10,000 fewer people died in alcohol-related vehicle accidents than in the previous five year period. Teen fatalities fell 34 percent between during that period, while adult fatalities fell 17 percent. Yes, more progress must be made, but these figures suggest that we concentrate our efforts on education.

We urge the Congress not to restrict the rights of truthful advertisers of legal products. Sound public policy dictates that regulations be based on appropriate and reliable evidence. Moreover, the First Amendment to the U.S. Constitution demands that government regulations of truthful commercial speech be based on such evidence and analysis.

The advertising industry will continue its fight against drunk driving by raising awareness of the problem through public information campaigns. In addition, AAF would welcome the opportunity to work with the Congress and the Surgeon General to help develop effective and constitutionally sound strategies for combatting this national crisis.

Respectfully submitted.

Howard Bell

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Statement of
Daniel L. Jaffe, Executive Vice President
Association of National Advertisers, Inc.

Regarding the
Advertising Proposals of the
Surgeon General's Workshop on Drunk Driving

Before the
Governmental Affairs Committee
United States Senate

June 21, 1989

Mr. Chairman and Members of the Committee:

The Association of National Advertisers (A.N.A.) appreciates this opportunity to testify on the advertising proposals promulgated by the Surgeon General's Workshop on Drunk Driving.

As the Committee is aware, A.N.A. represents the vast majority of national and regional advertisers in the United States. Our membership includes companies with over 2,000 subsidiaries, divisions and operating units located throughout the country. Our Members provide nearly 80% of all national and regional advertising in this Nation. While a number of major producers of malt beverages, wines and distilled spirits are represented by our Association, they are only a small proportion of our total membership. The recommendations of the Surgeon General's Workshop in regard to advertising issues, however, raise broad policy concerns that threaten to impact all advertisers severely.

Alcohol abuse and drunk driving are among the most serious problems confronting our society today. A.N.A., therefore, pledges its full support to this Committee, as well as the numerous federal and state agencies involved in alcohol regulation, to help develop effective solutions to these major national concerns.

Effective solutions are unobtainable, however, if we allow ourselves to head down regulatory blind alleys. We therefore call on the Committee and the Congress to reject the Workshop on Drunk Driving's recommendations in the advertising area. These recommendations are misguided, unconstitutional and would divert society from effective approaches to solving the alochol abuse and drunk driving problems in the United States.

The Involvement of the Advertising Community In Combating Alcohol Abuse and Drunk Driving

Long before the Surgeon General placed the spotlight of attention on the drunk driving issue, A.N.A. and the rest of the advertising community already were committed fully to combating this threat. Through The Advertising Council, the national public service arm of the advertising community, we have developed a wide range of hard-hitting public service announcements warning of the dangers of drunk driving and alcohol abuse.

In just the last few years, The Advertising Council has provided more than $230 million in public service advertising in all types of media to counteract drunk driving and alcohol abuse problems in our Nation. While The Advertising Council's participation in the alcohol abuse and drunk driving area has been critical at the national level, advertisers and the media on an individual basis annually have spent multi-millions of dollars in additional funding to fight these problems at the local level.

A.N.A., the advertising community, and The Advertising Council are prepared to do even more. As a member of The Advertising Council's Board of Directors, A.N.A. pledges to do all that it can to increase the Council's efforts in this area. Within days of the appointment of Secretary Skinner of the Department of Transportation, A.N.A. contacted the Secretary to set up a meeting on the drunk driving issue. As a result, last month A.N.A. and representatives of The Advertising Council were able to meet with officials of the U. S. Department of Transportation to urge them to reinstitute and accelerate their efforts in regard to drunk driving public service campaigns. We believe progress is being made in this direction.

"Equivalent Exposure"

As we have stated, A.N.A. supports a strong public service effort in the drunk driving area. But A.N.A. opposes the Surgeon General's call for "equivalent exposure" or matching of alcohol advertisements with so-called "pro-health and pro-safety messages." This proposal is unprecedented, unwarranted and counter-productive. Furthermore, any attempt to impose this proposal through government mandate would be totally unconstitutional.

Unfortunately, a number of extremely important issues were not examined when the Surgeon General called for matching alcohol ads with "equivalent exposure" of "pro-health and pro-safety messages." Two of these key questions are:

> First: What impact would implementation of this so-called "equivalent exposure" proposal have on the media marketplace?
>
> Second: What precedents would such a proposal create?

Media Impact

The impact of the "equivalent exposure" proposal clearly reaches far beyond the alcohol industry and also would affect adversely a whole spectrum of existing public service efforts. If alcohol ads are to be matched by "pro-health and pro-safety messages," particularly on the broadcast media where time is extremely limited, then what are the inevitable consequences? Clearly the equivalent exposure approach will either: 1) take the time that previously would have been allotted to paid advertising, or, 2) fill the time that otherwise would have been provided to existing public service campaigns.

Substantially decreasing the number of advertising availabilities without decreasing demand for these time slots inevitably will increase media costs for all advertisers. Furthermore, it is naive to think that these costs will not be passed on to the public at large.

Also, in a substantial number of instances, these "pro-health and pro-safety messages" in the alcohol area would replace other public service announcements. Already the competition for public service slots is fierce. The Wall Street Journal in its "Advertising" column of June 5, 1989, for example, quoted officials of Capital Cities/ABC, Inc. as stating that they "receive more than fifty thousand public service ads" annually. Already the media cannot accomodate all of these public service campaigns.

What societal purpose is served by preempting public service campaigns for AIDS prevention, the Red Cross, anti-crime programs, the United Negro College Fund, anti-drug abuse programs, and the myriad other existing public service campaign efforts, in order to find time for additional anti-drunk driving public service spots? Why should the drunk driving issue have primacy in the competition for media slots over every other public service issue? The answer simply is that this type of primacy is not warranted and Congress should emphatically reject this misguided approach.

Precedent

Attempting to institute this type of "equivalent exposure" program is totally unprecedented. It is important to remember that the Surgeon General's call for equivalent exposure is directed at somehow counterbalancing the truthful, nondeceptive advertising of a legal product -- alcohol. Alcohol advertising, in effect, would be treated differently from all other advertising.

If alcohol products are advertised in a truthful, nondeceptive manner, we ask why they should be singled out for exceptional burdens. If alcohol advertising is false or deceptive, that advertising should be dealt with directly. As we will demonstrate later in our statement, federal regulators already have all the power they need to ban or regulate harmful advertising. Calling for or mandating that alcohol advertising be balanced by equivalent exposure of pro-health and pro-safety messages is totally unwarranted.

As we noted in our comments to the Surgeon General regarding the recommendations of the Workshop on Drunk Driving, even when the "Fairness Doctrine" was in effect it never mandated equivalency of messages on the broadcast media. The Fairness Doctrine is not, nor was it ever, an "equal time" rule. It merely called for broadcasters to provide "reasonable" access for contrasting viewpoints to be heard. At no time did the FCC mandate for any issue, however controversial, an equivalency approach. *

Furthermore, the FCC never required that in creating "reasonable" access for contrasting viewpoints that advertising be the sole, or even the primary, vehicle for this effort. In determining compliance with the Fairness Doctrine, the FCC was required to examine the overall broadcast program schedule, including programming, newscasting and advertising, to determine whether the Fairness Doctrine should be triggered.

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*In a Broadcast Bureau staff opinion Radio Station KKHI, 47 R.R. 839, for example, a 1 to 5 ratio was determined to be unreasonable on its face.

In 1974 in a total review of the Fairness Doctrine, the Federal Communications Commission clearly and unequivocally determined that, advertising that does not affirmatively attempt to raise a controversial issue of public importance does not trigger the Fairness Doctrine. The FCC in discussing this issue stated that, "we believe that standard product commercials such as the old cigarette ads, make no meaningful contribution towards informing the public on any side of any issue." *In the Matter of The Handling of Public Issues Under the Fairness Doctrine and the Public Interest Standard of the Communications Act*. 48 F.C.C. 2d 1, 30 R.R. 2d 1261 (1974) (emphasis added). This conclusion was upheld consistently by the FCC until the operation of the Fairness Doctrine was eliminated in the last Congress. Therefore, it would be counter to precedent to attempt to require even a balancing of "standard product commercials" for alcohol, let alone to mandate or call for a one-to-one equivalency approach.

If the government puts the weight of its authority behind launching a matching approach in all media, the precedent established clearly will be extended to other legal products that can be abused or are considered health risks. There are numerous products that segments of society believe create serious health risks, for example, products high in sugar, fat, sodium and cholesterol. Should advertising for these product categories be required to be matched by equivalent "pro-health messages?"

There also are numerous products that are dangerous when abused: automobiles, over the counter drugs, guns, even glue. Should ads for these products be required to be matched by safety and health messages? Once the government tries to push for "equivalent" health or safety messages in one area, clearly there will be a clamor to extend these efforts to many other segments of advertising.

It appears to us that underlying the Surgeon General's "equivalent exposure" proposal is a blurring of the critically important distinction between alcohol use and alcohol abuse. This clear demarcation must be maintained. We therefore urge this Committee not to support this misguided proposal.

The Constitutional Protection of Advertising

Commercial speech enjoys broad constitutional protection. Thus restrictions by the federal government on alcohol advertising, or any other type of advertising, must be consistent with the requirements of the First Amendment. In fact, the United States Supreme Court has made clear that, under constitutional principles, commercial speech — advertising — cannot be restricted or prescribed unless the Court determines that 1) the advertising is false or deceptive, or 2) that the restriction directly serves a substantial governmental interest and the restriction is not more extensive than is necessary to serve that interest. Central Hudson Gas Company v. Public Service Commission, 447 U.S. 557, at 563-564 (1980); In re R.M.J. 455 U.S. 191, 199 (1982).

The Federal Trade Commission's Bureaus of Consumer Protection and Economics, after an extensive review of more than sixty studies concluded that existing research "does not demonstrate a causal connection between alcohol beverage advertising and alcohol abuse." Numerous other studies have made similar findings.

But our argument that the Workshop on Drunk Driving's advertising proposals violate the First Amendment rests on more than merely a finding of a lack of a causal connection between alcohol advertising and alcohol abuse. Numerous studies have clearly implicated parental emulation and peer pressure as the primary predictive variables in the use and abuse of alcohol. When the Office of Technology Assessment - an important research arm of the Congress - comprehensively examined the alcohol abuse issue they did not even list advertising as a factor in alcohol abuse. Also, in a number of countries where alcohol advertising bans or severe advertising restrictions have been instituted, alcohol abuse and drunk driving have not diminished.

We are unaware of any systematic analysis developed by the Surgeon General or his Workshop that would provide the Congress a meaningful basis to conclude that restricting truthful alcohol advertising would aid in eliminating or even reducing alcohol abuse or drunk driving. Any effort to ban or restrict truthful advertising of alcohol products, therefore, would fly in the face of the vast preponderance of the scientific data now available, and this would be unconstitutional.

One proposal of the Advertising and Marketing Panel of the Surgeon General's Workshop on Drunk Driving requires particular attention. The Panel recommended that federal and state tax deductions be eliminated for "alcohol advertising promotion other than price and product advertising." While this proposal ostensibly would not ban the advertising of alcohol products, we strongly believe this proposal also violates the First Amendment.

The United States Supreme Court repeatedly has stated that discriminatory taxation of speech is unconstitutional. In Speiser v. Randall, 357 U.S. 513, 518 (1958), the Supreme Court recognized that "speech can be effectively limited by the exercise of the taxing power." Where the Court has upheld denials of tax exemptions in connection with speech-related activity, it always has stressed that the restrictions could not have survived scrutiny if they had favored some speech over other speech on the basis of its content, e.g., Regan v. Taxation with Representation, 461 U.S. 540, 548 (1983); Cammarano v.

United States, 358 U.S. 498, 513 (1959). Making advertising for particular products inordinately expensive by eliminating the advertising business expense deduction appears to be a less direct approach to censorship than an outright ban, but it is no less damaging to the First Amendment. This recommendation to adversely burden truthful, nondeceptive advertising of alcohol products is merely an attempt by the Workshop to censor selectively thoughts they do not like and to control information flow in the United States in regard to alcohol products. Clearly by singling out such a large segment of alcohol advertising for unfavorable tax treatment, the Workshop demonstrates once again its underlying assumption that most alcohol advertising is intrinsically harmful. This view is inappropriate and skates dangerously close to a neo-prohibitionist outlook. If alcohol advertising is singled out for such adverse treatment a multitude of other controversial products soon also will face attacks on their tax deductibility.

The Regulation of Advertising

Even though commercial speech has First Amendment protections, alcohol advertisers are not free to advertise without constraints. The federal government has broad authority to regulate alcohol advertisements.

The Federal Trade Commission (F.T.C.) is the principal federal regulator of national advertising. The F.T.C. can seek to ban or regulate advertising the Commission believes to be false or deceptive and can bring penalty actions against advertisers who violate the law. The Bureau of Alcohol, Tobacco and Firearms (BATF) also can bring civil and criminal actions against false, misleading or deceptive alcohol advertisements under the Federal Alcohol Administration Act. Many states have followed the federal government's lead and have adopted so-called "little F.T.C. Acts" providing broad regulatory authority over advertising disseminated in their states.

Alcohol beverage advertising also is subject to the self-regulatory standards promulgated by the national networks as well as the advertising industry's own self regulatory watchdog, the National Advertising Division (NAD) of the Council of Better Business Bureaus and the National Advertising Review Board (NARB).

Federal regulatory authorities already have more than enough power to protect the marketplace. More regulatory authority is not called for or necessary.

Recent Federal Legislation

Last year the Congress passed, and the President signed, the Anti-Drug Abuse Act of 1988. Under this act specific health warnings will be required to appear on the labels of all containers of alcohol beverages, effective November 18, 1989.

The health warning statement will advise consumers of the risks of birth defects in pregnant women, impairment of the ability to operate a car or other machinery, and warn of other potential health problems resulting from the consumption of alcoholic beverages.

These detailed warnings will communicate very powerful information to the user at the time of purchase and prior to consumption. Those few people who are not informed already of the negative consequences of alcohol abuse should become aware of the dangers through these labels. Before Congress passes new legislation impacting the advertising or labeling of alcohol products, A.N.A. believes it would be prudent for Congress to at the very least examine the impact of this recently enacted legislation, before considering launching new regulatory efforts in the advertising area.

Target Alcohol Abuse, Not Use

A.N.A. believes firmly that alcohol abuse, not alcohol use, should be the target of any effort to combat the problems of drinking and driving. We commend the Surgeon General for choosing among his recommendations a number of the Workshop's proposals which could curb directly alcohol abuse and drunk driving without infringing on constitutionally protected First Amendment rights. Increased alcohol educational awareness programs in the schools, at worksites and within the community, stronger enforcement of existing laws against the sale of alcohol to minors and more forceful and public crackdowns on drunk drivers are powerful instruments for reducing alcohol abuse and drunk driving. Also increased national programs to help alcoholics to overcome their devastating problem we believe could also materially aid in the fight against alcohol abuse and drunk driving.

These are real solutions. Targeting truthful advertising of alcohol products for increased regulation, on the other hand, is likey to do virtualy nothing to improve anti-drunk driving efforts.

Inherent in many of the recommendations of the Advertising and Marketing Panel of the Surgeon General's Workshop on Drunk Driving is the notion that all alcohol advertising encourages consumers to abuse alcohol. A.N.A. steadfastly rejects this notion. As long as alcohol consumption remains legal in this country, A.N.A. will fight to retain advertiser's First Amendment rights to advertise this product truthfully and non-deceptively.

Finally, we request that the attached more detailed response to the various advertising proposals promulgated by the Workshop on Drunk Driving be made a part of our statement and the hearing record.

We appreciate your consideration of these important issues and we will be glad to answer any questions that you may have.

Comments of the Association of National Advertisers, Inc. (A.N.A.) Concerning the Preliminary Recommendations of the Advertising and Marketing Panel of the Surgeon General's Workshop on Drunk Driving

ANA

Association of National Advertisers, Inc.

Comments on
Recommendations by
The Advertising and Marketing Panel of
The Surgeon General's
Workshop on Drunk Driving

Table of Contents

Introduction Page 1

Section 1
The Composition of the Advertising and Marketing Panel Was Flawed Page 3

Section 2
A.N.A.'s Response to the Panel's Recommendations Page 6

Section 3
A.N.A.'s Recommendations to the Surgeon General Page 19

Section 4
Summary Page 23

Association of National Advertisers, Inc.

Comments on
Recommendations by
The Advertising and Marketing Panel of
The Surgeon General's
Workshop on Drunk Driving

Introduction

The Association of National Advertisers, Inc. (A.N.A.) represents the majority of national and regional advertisers in the United States. Our membership includes close to 300 companies and their more than 2,000 subsidiaries and divisions. These companies, which sell a wide range of products and services, employ advertising as an important element of their marketing and public relations programs.

Collectively, A.N.A.'s membership accounts for almost 80% of all national and regional advertising expenditures in this country. While A.N.A. numbers among its members major producers of malt beverages, wines and distilled spirits, these companies constitute only a small proportion of our total membership. Nevertheless, the recommendations with respect to advertising made by the Surgeon General's Workshop on Drunk Driving raise broad policy issues and constitutional questions, and if implemented would have an adverse affect on all advertisers and, in general, would undermine freedom of commercial speech.

It is A.N.A.'s position that attempts to ban or severely restrict alcohol advertising not only will fail to aid the efforts to ameliorate alcohol abuse and drunk driving in the United States, but will prove extremely deleterious as they will dissipate and misdirect national energies from real solutions to these problems. It would be disastrous if the outcome of the Surgeon General's Workshop on Drunk Driving were to divide society in its efforts to combat these twin scourges by laboring under the delusion that government restrictions of the truthful, nondeceptive advertising of alcohol products would somehow be effective against alcohol abuse and drunk driving.

These views are not visceral but are based on an extensive analysis of the data. Numerous foreign countries have banned or severely restricted alcohol advertising without success in lessening their alcoholism or drunk driving problems. Government censorship may appear to be an easy solution to our nation's alcohol abuse problems, but scientific research and foreign experience do not support the efficacy of this premise.

Therefore, on behalf of all our Members, A.N.A. submits these comments in the expectation they will serve to launch a productive dialogue on the critical issues of alcohol abuse and drunk driving, solutions for which are not well served by the hastily developed, ill-conceived, and counterproductive proposals of the Advertising and Marketing Panel of the Surgeon General's Workshop on Drunk Driving.

Comments on
Recommendations by
The Advertising and Marketing Panel of
The Surgeon General's
Workshop on Drunk Driving

Section 1

The Composition of the Advertising and Marketing Panel Was Flawed

A.N.A. believes the composition of the Advertising and Marketing Panel of the Surgeon General's Workshop on Drunk Driving was flawed and that therefore the conclusions it reached do not represent a balanced and thoughtful review of the available and potential options that may be employed in combating alcohol abuse and drunk driving. In fact, they display an unfortunate lack of knowledge about advertising in general and the law and regulation in particular.

While it is our understanding the Workshop was planned well ahead of its scheduled date and panel members were provided with substantial time in which to prepare, A.N.A. was invited to participate less than nine days prior to the Panel's convening, leaving only an abbreviated interval which was totally inadequate for proper preparation.

This deficiency was severely compounded by the fact that the makeup of the Advertising and Marketing Panel failed to include representation from numerous key government, business, and legal experts whose interest and experience were germane to the subject under consideration. Among those not included were, from the government sector, any representatives from the Federal Trade Commission, the agency whose responsibility it is to regulate advertising. Furthermore, the F.T.C. has carried out extensive analysis of the relationship of alcohol advertising to alcohol abuse, certainly information to which the panel should have had access. Yet the F.T.C. was not a participant on the Advertising and Marketing Panel.

Also unrepresented was the Department of the Treasury's Bureau of Alcohol, Tobacco and Firearms, although BATF also has responsibility for alcohol advertising regulation.

Additionally, no constitutional experts were participants on the panel, despite the fact that restrictions on alcohol advertising raise major constitutional issues.

Finally, numerous groups from the business community with significant concerns about alcohol abuse and drunk driving apparently also were systematically excluded from participation. As a result, the Advertising and Marketing Panel failed to fulfill the Surgeon General's own mandate that "the Workshop's deliberations be balanced and fairly represent all interested parties and points of view."

A.N.A. strongly believes that drunk driving and alcohol abuse are among the most serious issues that confront our society today, but we are equally persuaded that progress in combating these afflictions can be made only with the participation and involvement of *everyone* concerned.

There can be no real and lasting progress in regard to these critical issues when the process is exclusionary rather than participative. We hope that future consideration of drunk driving issues will be carried out in a more open and balanced manner. We pledge our full support to such an effort.

Section 2

A.N.A.'s Response to the Panel's Recommendations

The Advertising and Marketing Panel of the Surgeon General's Workshop on Drunk Driving made a series of recommendations proposing severe restrictions on alcohol advertising. The constitutional issues surrounding the restriction of alcohol advertising were ignored by the Workshop on Drunk Driving's Advertising and Marketing Panel. Here are some observations on the larger constitutional issues and specific responses to individual recommendations by the Panel.

Restrictions by the federal government of alcohol advertising or any other advertising must be consistent with the requirements of the First Amendment. The litmus test for the regulation of commercial speech was formulated by the United States Supreme Court in the *Central Hudson Gas and Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1980). The Court, while reaffirming advertising's First Amendment protections, established a test defining the permissible boundaries of governmental regulation of advertising. The test states that truthful, non-deceptive commercial speech can be restricted only if:

1) The asserted government interest is substantial;

2) The restrictions "directly advance" the asserted governmental interest; and

3) The restrictions are "no more extensive than necessary" to serve the asserted governmental interest.

Based on this ruling, as well as other Supreme Court decisions, A.N.A. believes that most of the Panel's recommendations cannot meet the test outlined in *Central Hudson* and that therefore they are unconstitutional.

"Equivalent Exposure"

The Advertising and Marketing Panel urged equivalent exposure of "pro health and safety messages" with the level of alcohol advertising. This proposal, if mandated through government action, clearly would violate the legitimate First Amendment rights of advertisers, broadcasters, publishers and the public.

Typically, this proposal is silent on numerous key issues such as:

1) Who would be required to pay for these "pro-health and safety messages";
2) Who would develop these messages;
3) Under what circumstance and procedures these messages would be placed on the media; and
4) What impact this proposal would have on the general advertising marketplace and on the availability of public service advertising for the Red Cross, United Way, Fire Prevention, Anti-Crime and the myriad

other important national issues not related to alcohol abuse and drunk driving.

If the Panel believes that such an approach should be facilitated through government mandate, this would be a radical departure from all existing precedents. Even when the "Fairness Doctrine" was in effect it never mandated equivalency of messages on the broadcast media. As the American Civil Liberties Union stated in May 21, 1985 testimony at hearings of the House Energy and Commerce Committee in 1985 on alcohol advertising, "the Fairness Doctrine is not an 'equal time' rule. It merely calls for broadcasters to provide 'reasonable' access for contrasting viewpoints to be heard. The Federal Communications Commission has never mandated any exact equivalency."

Furthermore, the FCC in its 1974 Fairness Report stated that the Fairness Doctrine *was not* triggered by *all* commercial advertising. The FCC would apply the doctrine "only to those commercials which are devoted *in an obvious and meaningful way* to the discussion of public issues." (Emphasis added) 48 F.C.C. 2d 1,30 R.R. 2d 1261 (1974).

If "equivalency of exposure" becomes a requirement for alcohol advertising, clearly it will create precedents for products that are high in cholesterol, high in sodium, fats or sugar, and for over-the-counter drugs, automobiles and other vehicles, and for any other product for which some important group alleges a concern.

Clearly, since acceptance of this proposal could not be limited to alcohol advertising, it is both misguided and dangerous.

Bans on Alcohol Advertising and Promotion

A number of the Panel's recommendations concern the elimination of alcohol advertising and promotion. The following are the Advertising and Marketing Panel's proposals and A.N.A.'s comments:

"Elimination of Alcohol Advertising and Promotion on College Campuses Since a High Proportion of the Audience Reached is Under the Legal Drinking Age."

This proposal is improper for several reasons. First, many universities have graduate schools, medical schools and law schools as large if not larger than their undergraduate schools, populated primarily by students above the legal drinking age. Second, those who may view alcohol advertising on college campuses are not only students but also a large complement of professors, alumni, visitors, cafeteria workers, grounds people, clerical help and so on. Third, as the United States Supreme Court has stated in *Butler v. Michigan*, 352 U.S. 380, 383 (1957), the government may not "reduce the adult population... to reading only what is fit for children."

"Elimination of Alcohol Advertising and Promotion and Sponsorship of Public Events Where the Majority of the Audience is Under the Legal Drinking Age."

This proposal, in our view, is a classic example of an attempt at prior restraint of speech. It would require advertisers and promoters to know beforehand that a "majority of the audience" to upcoming events will be under the legal drinking age. This type of crystal ball reading is impractical at best, often even impossible, and would serve to ban an enormous range of alcohol advertising and promotion in the United States. Furthermore, "public events" is an extremely broad and vague term which could include both commercial and noncommercial speech. Implementation of this proposal could serve to prohibit the sponsorship of art exhibits, music festivals, fundraising events for charities, and a host of worthwhile activities now underwritten by alcohol manufacturers.

"Eliminate the Use of Celebrities Who Have a Strong Appeal to Youth in Alcohol Advertising."

This proposal would require the designation or creation of a government censorship board to make Solomonic determinations as to "who is a celebrity" and which celebrities not only have an appeal but a "*strong* appeal to youth." Clearly, these types of determinations are likely to be highly subjective and arbitrary. Apparently, the Advertising and Marketing Panel believes it is constitutionally permissible to attempt to require alcohol advertising to be presented by unknowns, the unappealing, or celebrities with the unusual characteristic of being attractive only to those over twenty-one. But this is a ludicrous constitutional theory. In light of the fact that the nexus between alcohol advertising and alcohol abuse is completely unsupported by credible evidence, such proposals do not meet constitutional muster.

"Elimination of Business Expense Deduction for Alcohol Advertising and Promotion Other Than Price and Product Advertising."

The meaning of this proposal, like several others by the Panel, is ambiguous. We take this proposal to mean that any statement other than a picture of a product and a statement of its price would eliminate this business expense deduction for that particular alcohol advertisement. If this is the proper interpretation of the proposal, an ad by a liquor, wine or malt beverage advertiser merely wishing its customers "a happy holiday season" would serve to assure that the ad would lose its tax deductibility. In the same manner, an advertisement for alcohol products that urges the consumer to use alcohol products only with care and moderation similarly would magically be transformed to nontax-deductible status. Can this make any constitutional sense? The answer simply is no.

A.N.A. strongly opposes a limitation on, or total disallowance of, the tax deductibility of advertising of products that are singled out for adverse tax treatment due to the content of their message. It is well established that advertising is protected by the First Amendment. *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council*, 425 U.S. 748 (1976); *Central Hudson Gas & Electric Co. v. Public Service Commission of New York*, 447 U.S. 557 (1980). Proposals to single out for adverse treatment the tax deductibility of alcohol advertising expenses because certain members of society do not like the content of the message simply is unconstitutional.

The United States Supreme Court repeatedly has stated that discriminatory taxation of speech is unconstitutional. The United States Supreme Court in *Speiser v. Randall*, 357 U.S. 513, 518 (1958) recognized that "speech can be effectively limited by the exercise of the taxing power." The Court in that case emphasized that "It cannot be gainsaid that a discriminatory denial of a tax exemption for engaging in speech is a limitation of free speech." Ibid at 518.

The United States Supreme Court has made clear that the First Amendment forbids the use of discriminatory tax treatment for the suppression of disfavored commercial speech. When the Court has upheld denials of tax exemptions in connection with speech-related activity, it always has stressed that the restrictions could not have survived scrutiny if they had favored some speech over other speech on the basis of its content, e.g. *Regan v. Taxation with Representation*, 461 U.S. 540, 548 (1983); *Cammarano v. United States*, 358 U.S. 498, 513 (1959).

Comments on
Recommendations by
The Advertising and Marketing Panel of
The Surgeon General's
Workshop on Drunk Driving

In *Arkansas Writers Project Inc. v. Arkansas*, 107 S. Ct. 1722 (1987), the U.S. Supreme Court stressed that, "Above all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter or its content .... Regulations which permit the government to discriminate on the basis of the content of the message cannot be tolerated under the First Amendment." Ibid at 1724.

Even Chief Justice Rehnquist and Justice Scalia, who dissented in the *Arkansas Writers Project* case, stressed that denial of participation in a system of tax exemptions would infringe the First Amendment if the denial were intended to produce, or *did* produce, "a significant coercive effect" – that is an inhibition of speech. Eliminating the advertising expense deduction for alcohol products would have just such an effect.

Making advertising for particular products inordinately expensive by eliminating the advertising expense deduction may appear to be a less direct approach at censorship than an outright ban, but it is no less damaging to the First Amendment. As Eugene C. Thomas, past President of the American Bar Association, has stated, "There's a serious legal problem to the use of the tax code for social engineering." Once we start down this road, we could move quickly beyond alcohol products to many other categories of advertising. Censorship is contagious even when it is hidden under the guise of tax policy.

To continue to permit the business expense deduction of alcohol "price and product advertising" does not cure the constitutional problems involved with this recommendation. On numerous occasions the Supreme Court has protected the right of commercial advertisers to couch their messages in an effective manner, so long as the message is not false or misleading, *in re R.M.J.*, 455 U.S. 191 (1982), *Zauderer v. Office of Disciplinary Counsel*, 105 S. Ct. 2265 (1985). By discriminatively increasing the price of certain products they disfavor, the panelists are simply attempting to selectively censor thoughts they do not like and to control information flow. This approach is totally antithetical to the fostering of a democratic and free society.

Extension of Alcohol Warning Labels to Advertising

The law mandating specific warning labels on all alcohol beverage containers takes effect on November 18, 1989. The Bureau of Alcohol, Tobacco and Firearms is still working out the details regarding size, typeface and location of the label. A.N.A. believes that there should be adequate time to see how these labeling requirements work.

There is a functional distinction between advertising and labeling. Labeling is the appropriate vehicle for communicating detailed information to include warnings and directions for usage to consumers at the time of purchase and prior to consumption. If the public becomes aware of the warnings through the labels, A.N.A. sees even less justification for requiring warnings to be placed in every advertisement. What is required here is time to examine the impact of this new legislation, not a blind extension of a mandate that has yet to go into effect.

Ironically, the Panel appears at cross purposes here with its other recommendations. The Panel has consistently advocated banning or restricting a large portion of alcohol advertisements while here they want to use advertising as an information source.

Research Recommendations

The Advertising and Marketing Panel calls for sweeping and immediate changes that would curtail severely the ability of alcohol producers to advertise their legal products. *After* these recommendations are implemented, the Panel appears to believe that it would be appropriate to carry out extensive research on the effects of alcohol advertising and alcohol consumption. This approach is reminiscent of the famous quote from *Alice's Adventures in Wonderland*: "Sentence first - verdict afterwards."

There is a very large body of *independent* information already in existence on the impact (or lack thereof) of advertising on alcohol consumption and alcohol abuse. The Panel was either not aware or chose to ignore this existing research in promulgating their preliminary recommendations.

An examination of foreign efforts to ban or regulate alcohol advertising demonstrates that such an approach is a blind alley in counteracting alcohol abuse and drunk driving. Smart and

Cutler, for example, conducted an analysis of the effects of an alcohol ad ban in British Columbia over fourteen months in 1971 and 1972. The authors concluded that there was *no effect* on consumption of beer, wine or spirits attributable to these restrictions. (Smart, R.G. and Cutler, R.E., Brit. J. Addict. 71: 13-21, 1976) Ogborne and Smart studied the effects of alcohol advertising restrictions in Manitoba in 1980. This study showed *no change* in overall alcohol consumption following the implementation of such restrictions. (Ogborne, A.C. and Smart R.G., Brit. J. Addict. 75: 293-296, 1980). Finally, Bourgeoise and Barnes studied the impact of alcohol advertising on Canadians from 1951 to 1974 and found little relationship between advertising and per capita consumption.(Bourgeoise, J.C. and Barnes, J.G., J. Advert. Res. 19 (No. 4): 19-29, 1979).

The experience in the Eastern Bloc and the Scandinavian countries and other parts of Europe also confirms these findings. (eg. Simpson, H.M., Beiness, D.J., Mayhew D.R. and Donelson, A.E., Traffic Injury Research Foundation of Canada, 1985). Foreign experience with alcohol advertising restrictions provides a clear demonstration that the United States need not experiment with alcohol advertising restrictions or bans. These experiments already have been tried in numerous times without success.

In fact, a recent article by Reginald Smart, Ph.D., *Journal of Studies of Alcohol*, Volume 49, No. 4, 1988 (See attachment.) found that *no study*, with the exception of Atkins and Block, has concluded that alcohol advertising has a substantial effect on alcohol consumption. Furthermore, the methodology of the Atkins and Block studies has been severely criticized on the basis of their "bias and nonrepresentative sampling" and the inadequacy of the data base "to establish causal connections." Ibid. page 317.

A 1983 comprehensive study by the Congressional Office of Technology Assessment, which examined the causes of alcohol abuse in the United States entitled "The Effectiveness and Costs of Alcoholism Treatment" failed even to mention alcohol advertising, let alone cite it as a major factor.

Furthermore, the Federal Trade Commission's Bureaus of Consumer Protection and Economics, after an extensive and painstaking review of the literature on alcohol advertising and alcohol abuse, pointed out that the existing research "does not demonstrate a causal connection between alcohol beverage advertising" and "alcohol abuse." (Omnibus Petition for Regulation of Unfair and Deceptive Alcoholic Beverage Advertising and Marketing Practices, F. T. C. Docket No. 209-46).

While A.N.A. clearly supports independent and scientifically rigorous research on these important issues, we hasten to point out that action to restrict alcohol advertising without this data would be premature and improper. The United States Constitution places the burden on those who wish to regulate speech rather than those who are the subject of the regulation. If the panelists chose to disregard the extensive existing research that fails to corroborate the link between alcohol advertising and alcohol abuse, that is their prerogative, but it clearly would be irresponsible for the Office of the Surgeon General to make the same mistake.

Once again, we call on all segments of society who truly care about combating alcoholism and drunk driving problems in our nation to work together, but only on the basis of facts rather than on groundless fears, hopes or illusions.

Comments on
Recommendations by
The Advertising and Marketing Panel of
The Surgeon General's
Workshop on Drunk Driving

Section 3

A.N.A.'s Recommendations to the Surgeon General

The A.N.A. and the rest of the advertising community, far from being indifferent or unconcerned about the problems of alcoholism and drunk driving in our nation, already have had these issue on its agenda and will continue to address the problems in an organized and orderly manner, and would welcome the opportunity to cooperate with the Surgeon General's Office in furthering this cause.

First and foremost, however, A.N.A. appeals to the Surgeon General's reason and sense of fair play, and we call for an extension of the Workshop's investigation. We urge the Surgeon General to **table** the Advertising and Marketing Panel's recommendations until such time as a properly constituted panel can be reconvened, a panel that can deal more thoroughly with these issues so critical to American society. Members of the Federal Trade Commission and the Bureau of Alcohol Tobacco and Firearms, experts in Constitutional law, and appropriate industry representatives should number among those asked to participate. This can be done promptly, while still providing ample time for preparation.

It is also appropriate for the Surgeon General to consider the study now being conducted by the National Commission Against Drunk Driving at the behest of the Department of Transportation.

These are appropriate ways to address problems of such consequence, and A.N.A. assures the Surgeon General of its commitment to cooperating fully. They do not mean, however, that no forward movement can take place. Much can be begun.

The Advertising Council, through the voluntarily donation of time, talent and expertise of advertisers, advertising agencies and the media, has devoted substantial resources and attention to these issues. For almost 50 years, The Council, the quintessential volunteer organization, has been the public service arm of the advertising community. A.N.A. is proud to be a founding member of The Advertising Council and A.N.A.'s president is *ex officio* its treasurer and a member of its Board of Directors.

In just the last few years, The Advertising Council has provided more than $230 million in public service advertising, warning of the dangers of drunk driving and alcohol abuse. These efforts are in addition to the multimillions of dollars separately expended by individual advertisers and the media also directed to these critical national problems.

A.N.A., the advertising community, and The Advertising Council furthermore stand ready to do more. Already A.N.A. has urged the Department of Transportation to reinstitute its efforts in conjunction with The Advertising Council on the public service advertising campaign "Drinking and Driving Can Kill a Friendship." One recommendation we would like to see come from the Surgeon General's Workshop on Drunk Driving would be to urge the various relevant segments of the federal government to increase their cooperative efforts with The Advertising Council to create and disseminate public service advertising directed to the drunk driving problem. Whether we receive government support or not, A.N.A. pledges to do all it can to accelerate these public service efforts.

Increased alcohol educational awareness programs in the schools, stronger enforcement of the laws against the sale of alcohol to minors, more consistent and forceful crackdowns on drunk drivers are just a few examples of programs that are far more likely than censorship to assist in ameliorating societal problems due to alcohol abuse and drunk driving without any impermissible impact on constitutionally protected First Amendment rights.

Enforcing the law already has had a significant impact on reducing the incidence of drunk driving according to a recent announcement by the National Highway Safety Council which attributed a reduction in drunk driving to increased awareness of the legal and social consequences of getting caught. A.N.A. proposes the Surgeon General petition the Attorney General and the Justice Department to impress upon local enforcement agencies the urgency of upholding the law and publicizing their activities to counter alcohol abuse and drunk driving. We further would suggest that the government consider ways to tie federal highway fund disbursements to the development of effective state anti-drunk driving programs and enforcement of laws against underage drinking.

Another important area of concentration, one that again could utilize the public service creativity of The Advertising Council, is an appeal to parents to discharge their parental responsibilities in teaching children about alcohol abuse and the importance of being a trustworthy driver. The impressive weight of the Surgeon General's Office can be brought to bear here and his influence, as it has before, could have a profound effect on social changes in this country.

Section 4

Summary

The predicate for the proposals put forward by the Advertising and Marketing Panel of the Surgeon General's Workshop on Drunk Driving is that all alcohol advertising is either explicitly or implicitly urging young people to violate the law in regard to alcohol use. A.N.A. is adamant in its rejection of this assumption. If this kind of skewed reasoning is accepted, it obviously would raise issues as to the advertising of automobiles, motorcycles and the multitude of other products inappropriate for use by minors. The Supreme Court has made clear that advertising need not be lowered to the level of the "sandbox" in order to protect young people from information directed to adults. *Bolger v. Young Drug Products Corporation*, 463 U.S. 60, 73 (1983).

Furthermore, as noted earlier, the vast preponderance of data concerning alcohol abuse and drunk driving, both in the United States and foreign countries, does not implicate advertising as a cause of alcohol abuse. The Federal Trade Commission's Bureaus of Consumer Protection and Economics in reviewing all of this data concluded, "Our staff's review of the literature regarding the quantitative effect of alcohol advertising on consumption and abuse found *no reliable basis to conclude that alcohol advertising significantly affects consumption, let alone abuse.*" (Emphasis added.)

In other words, there is no scientific basis to conclude that severe restrictions on alcohol advertising will "directly advance" the government's interest in counteracting alcohol abuse or drunk driving in the United States.

In addition, the Draconian list of advertising proposals promulgated by the Workshop on Drunk Driving's Advertising and Marketing Panel singly and collectively fail to meet the constitutional requirement that governmental restrictions on commercial speech be "no more extensive than necessary" to serve the asserted governmental interest.

While it can be argued that the states may have somewhat more authority to regulate alcohol products under the Twenty-first Amendment to the Constitution than the federal government, the *Capital City Cable Co., Inc. v. Crisp, 467 U.S. 691 (1984)* case demonstrates that state powers over alcohol advertising also are tightly circumscribed by other constitutional rights and restrictions. In light of the virtual nonexistence of any data to support alcohol advertising bans or restrictions, the states, like the federal government, also are highly constrained both by the First Amendment and the Commerce Clause of the Constitution in what they can do in the alcohol advertising area.

A.N.A. pledges its full cooperation with the Surgeon General's Office on pursuing the most effective means of dealing with alcohol abuse and drunk driving in this country. This can be best accomplished, however, with the Surgeon General's rejection of the proposals proffered by the Advertising and Marketing Panel. Instead, we urge a continuation of the investigation into pragmatic ways to address these problems, encompassing contributions from the advertising industry, affiliated industries, and governmental agencies as well as the original panel participants. Only when an appropriately balanced panel comprised of all interested parties examines the issues involved and makes considered recommendations should any action be contemplated.

In the meantime, as we have noted above, it is not necessary to stand by idly. There are immediate steps that can be instituted:

> The services of The Advertising Council should be employed to create another campaign on a similar theme to "Drinking and Driving Can Kill a Friendship," a suggestion we have made to Transportation Secretary-Designate Samuel K. Skinner.
>
> Laws regarding underage drinking and regarding driving while intoxicated should be diligently enforced.
>
> Parents should be urged to educate their children on the dangers of alcohol abuse and should be encouraged to examine their own behavioral examples.

Alcohol abuse and drunk driving are not problems that permit easy solutions. Concerted efforts on the part of all segments of society will be needed to make headway in combating them. It is imperative that those dedicated to the task of discovering an effective strategy move forward in a reasoned, measured way, supported by definitive research. It is equally important that they not seek scapegoats or allow themselves to be blinded by unsupported arguments or the preconceived notions of those with their own agenda.

As we hope has been clearly expressed by this document, the Association of National Advertisers fully understands the magnitude of these problems and joins with the Surgeon General in his desire to address them. We stand ready to cooperate in all effective and constitutionally acceptable ways we can to accomplish the goals of reducing alcohol abuse and drunk driving.

For the Association of National Advertisers, Inc.

DeWitt F. Helm, Jr.
DeWitt F. Helm, Jr., President

Daniel L. Jaffe
Daniel L. Jaffe, Senior Vice President, Government Relations

January 27, 1989

Statement of Burt Neuborne
Professor of Law
New York University
on behalf of
Association of National Advertisers, Inc.

Regarding the
Proposals Concerning Advertising of the
Surgeon General's Workshop on Drunk Driving

Before the
Government Affairs Committee
United States Senate

June 21, 1989

Mr. Chairman and members of the Committee:

My name is Burt Neuborne. I am a Professor of Law at New York University. I have spent a significant portion of my career as a lawyer for the American Civil Liberties Union, most recently as its Legal Director from 1982-1986, seeking to defend the principle of free speech from erosion at the hands of well-meaning persons who wish to combat a perceived social evil by government censorship. I appear this morning on behalf of ANA to discuss certain aspects of the attempt by the Surgeon General's Advertising Panel on Drunk Driving to use government regulation of speech as a means to combat drunk driving and alcoholism.

I believe that First Amendment principles preclude the government from imposing coercive regulations concerning the truthful advertisement of a lawful product. Thus, while I applaud the panel's commitment to dealing with the twin scourges of drunk driving and alcoholism, I reject the premise that speech regulation is a permissible governmental response to the issue.

Constitutional protection of commercial speech, including advertising, is now a settled aspect of First Amendment jurisprudence. _Virginia State Board of Pharmacy v. Virginia Citizens' Consumer Council, Inc._, 425 U.S. 748 (1976); _Linmark Associates, Inc. v. Township of Willingboro_, 431 U.S. 85 (1977); _Carey v. Population Services, Int'l._, 431 U.S. 678 (1977); _Bates v. State Bar_, 433 U.S. 350 (1977); _Central Hudson Gas & Electric_

Corp. v. Public Service Comm'n, 447 U.S. 557 (1980); In re RMJ, 455 U.S. 191 (1982); Bolger v. Young Drugs Products Corp., 463 U.S. 60 (1983). With the Committee's permission, I will annex to my statement an essay entitled "Free Speech-Free Markets-Free Choice: An Essay on Commercial Speech" prepared under the auspices of ANA. The essay details the constitutional underpinnings of First Amendment protection for commercial speech and discusses most of the relevant Supreme Court cases. We hope that the Committee will find it of assistance in thinking through the difficult constitutional issues posed by several of the panel's recommendations involving coercive regulation of speech.

Before discussing the panel's specific recommendations, I will attempt to set forth the reasons why I believe the Supreme Court decided to grant First Amendment protection to advertising beginning in 1975 and what the current ground-rules are for assessing the constitutionality of the panel's recommendations.

I. Why Should Advertising Enjoy First Amendment Protection?

Commercial speech plays at least four critical roles in a free market economy.

First, advertising is as essential to the efficient functioning of a system of economic democracy as political speech is to a functioning political democracy. Under our economic system, consumers vote with their dollars. Tampering with or manipulating the information flow relevant to consumer choice shifts the power to cast economic ballots from the consumer, where it belongs, to the government official who controls the information flow.

Second, advertising finances virtually all organs of mass communication in our society. Speech about religion, politics, science and art is literally carried on the shoulders of commercial speech.

Third, advertising has served in our society as a significant vehicle for the propagation of our shared national ethic of hard work, individual freedom and widely shared material prosperity. Our shared vision of a free, prosperous and egalitarian society is, often, conveyed more graphically from the billboard than from the lectern or the pulpit. For better or worse, advertising serves as an accurate mirror of our political and social vision.

Fourth, and most importantly, the free flow of speech about lawful commercial options deserves special constitutional protection because it is crucial to our culture's commitment to freedom of choice and individual autonomy. Attempts to manipulate the flow of truthful information about lawful economic choices are, at bottom, indirect means of government control of individual behavior through the use of information rationing.

II. What is the Level of First Amendment Protection Accorded to Commercial Speech?

The Supreme Court has recognized the significance of commercial speech to the functioning of a free society by affording it First Amendment protection. The current level of First Amendment protection for advertising reflects the fact that advertising exists to assist the consumer in making efficient and autonomous economic choices. Accordingly, unlike political speech, First Amendment protection for advertising exists only in connection with lawful activity. Moreover, unlike political speech, no constitutional protection exists for false advertising. Where, however, advertising truthfully deals with a lawful activity, it is entitled to a significant level of free speech protection that closely parallels the protection available to political speech.

In the ordinary political speech setting, for example, the government's interest must be "compelling". In the commercial speech context, the government's interest must be "substantial". While there may be nuances in meaning between the two standards, they have fused in practice into a requirement that the government demonstrate an important reason even to consider speech regulation.

Similarly, in the ordinary political speech setting, the government must demonstrate an extremely close causal linkage between the act of censorship and the avoidance of a serious social harm. In the commercial speech context, the identical requirement is imposed by the Supreme Court's insistence that advertising regulations "directly advance" an important governmental interest. A mere hope or belief, unsupported by hard factual evidence, that an advertising regulation will prevent a social evil is not sufficient. Where the government has failed to establish a clear factual link between speech regulation and the achievement of a desirable social goal, the First Amendment forbids regulation of commercial speech. Good faith reliance on "intuition" and "common sense" is not a sufficient basis for imposing coercive regulations on speech.

Finally, in the political speech context, censorship will be struck down if less drastic means exist to advance the government interest. Justice Powell adopted the identical standard in Central Hudson for the commercial speech area. In both political and commercial settings, therefore, coercive speech regulations that are broader than absolutely necessary are violative of the First Amendment.

III. The Panel's Recommendations and the Commercial Speech Doctrine

Two prongs of the prevailing four-part Central Hudson test are not implicated by the panel's recommendations. The importance of drunk driving as a national problem and the tragic consequences of alcoholism undoubtedly satisfy the first requirement of Central Hudson that there be a "substantial" interest at stake. On the other hand, no question exists concerning the lawful nature of the advertised product or the factual accuracy of the advertisements at issue.

In order to justify speech regulation, therefore, the government must satisfy the remaining two parts of the test by proving that the proposed regulation will "directly advance" the government's substantial interest in preventing alcohol abuse and that no less drastic means are available to pursue the government's ends. By the Surgeon General's own admission neither test can be met.

The Surgeon General concedes with commendable candor that no scientific evidence exists that current patterns of alcoholic beverage advertisement contribute to drunk driving or to alcoholism. Not surprisingly, existing FTC studies reinforce the Surgeon General's concession.

In place of a factual justification for speech regulation, the Surgeon General suggests that "common sense" or "intuition" or "logic" be used to support the premise that current alcoholic beverage advertising is a significant factor in drunk driving and alcoholism. Such an approach, which substitutes guess-work for facts, would gut the Central Hudson requirement that a regulation "directly advance" an asserted government interest. The essence of First Amendment protection of speech is the requirement that government support its attempts at speech regulation by facts, not mere "intuition". Indeed, it is my understanding that studies of similar attempts to regulate the advertising of alcoholic beverages in European countries have not shown any discernible impact on the problems of drunk driving or alcoholism.

At bottom, the Surgeon General's approach is premised on an assumption that individuals who are exposed to alcoholic beverage advertisements will be induced by the advertisements to drink to excess or to drive while impaired. Such an approach assumes that individuals are not competent to distinguish between an invitation to engage in the lawful use of alcohol and its abuse. It seems clear, however, that the pathological use of alcohol stems, not from the anodyne images connected with current advertising patterns, but from breakdowns in the individual's capacity for rational choice that have absolutely nothing to do with advertisements.

It would be comforting to believe that we could deal with our alcohol-related problems by blaming them on advertising. Such an illusion would, however, be doubly dangerous.

First, it would give the false impression of doing something significant about alcoholism and drunk driving, while sweeping the reality further under the rug. Second, it would establish an extremely dangerous precedent that would sanction censorship based on the "intuition" that individuals are incapable of distinguishing between a legitimate message and its abuse. If legitimate messages discussing lawful behavior can be regulated by the State because of a speculative fear that they may be abused by hapless hearers, the fabric of the First Amendment will have been seriously damaged. We cannot treat Americans as incapable of responding rationally to lawful commercial messages today and expect to respect their capacity to make unfettered political decisions tomorrow.

Moreover, before coercive governmental speech regulations are even seriously considered, it must be shown that no less drastic means of dealing with the issues exist. As the Surgeon General appears to recognize, the obvious less drastic means available to the government are education and enforcement. Significant government funding of educational and social service programs designed to deal with the underlying problems that lead individuals to the pathological use of alcohol are obvious less drastic alternatives to censorship.

Thus, the suggestion of the panel that a form of coercive regulation be adopted that would force broadcasters to provide "equivalent" messages discussing the dangers of the pathological use of alcohol every time a legitimate advertisement is aired would seem to violate the First Amendment, both because there is no factual showing that it would "directly advance" the interest in preventing alcohol abuse and because there are obvious less drastic - and more promising - ways to deal with the problem.

Congress, the courts and the FTC have recognized that attempts to place an information straight-jacket on the broadcast media through the Fairness Doctrine, or rules compelling access or other coercive interference with broadcasters' autonomy are, in the long run, self-defeating. Moreover, even at the height of the Fairness Doctrine, no one seriously argued for an "equal time" or "equivalence" standard. At most, a broadcaster was required to provide reasonable access to different sides of an issue. Given the generous use of public service advertising and current advertisers' repeated warnings about the danger of excessive alcohol consumption, existing practice more than satisfies the historic guidelines applied under the Fairness Doctrine. Any attempt at coercive rules imposing an "equivalence" standard on broadcasters should, I believe, be treated as a *de facto* attempt to achieve prohibition by rendering it prohibitively expensive for a broadcaster to accept an alchoholic beverage advertisement.

Moreover, once the principle of "equivalent" response to lawful advertising were established, it would undoubtedly spread to other forms of advertising that are perceived by some as involving products that can be abused. Equal time about the dangers of excessively fast driving every time an automobile is advertised, or "equivalency" messages warning about cholesterol in response to ads for eggs or milk are obvious sequels to the Surgeon General's approach.

Similarly, the suggestion that advertising of alcoholic beverages be banned on college campuses is, in my opinion, violative of the First Amendment. In the first place, graduate students and faculty cannot be denied access to information merely because certain undergraduates are below the legal drinking age. In *Bolger v. Youngs Drug Products Corp.*, the Court expressly ruled that adults could not be forced to hear only that which was fit for children. The suggestion that a society can be forced to adopt the lowest common denominator of speech is an invitation to widespread censorship.

Moreover, the suggestion that government tamper with the free flow of information on a college campus is particularly dangerous to First Amendment values. Current university administrators take very seriously their obligation to educate students about the dangers of alcohol abuse. Additional funding making possible even more intense counselling would, of course, be welcome. A college campus should, however, be the last place that a society experiments with censorship.

Finally, the panel's suggestion that beverage advertisers be penalized by selectively withdrawing the tax deductibility of any advertisement focusing on "lifestyle" rather than "product" raises a host of difficult First Amendment problems. It is highly doubtful whether Congress may selectively apportion the tax consequences of speech on the basis of content. Selectively apportioning the tax consequences of speech on the basis of content has been treated by the Supreme Court as the equivalent of forbidden content-based censorship. For example, in Arkansas Writer's Project v. Ragland, 107 S.Ct. 1722 (1987), the Supreme Court struck down an attempt by Arkansas to impose selective taxation based on content, stating "official scrutiny of the content of publications as the basis for imposing a tax is entirely incompatible with the First Amendment." Id. at 1728.

Moreover, even if selective content-based discrimination were permissible, the line suggested by the Surgeon General between "product" advertisements and "life-style" advertisements is hopelessly vague. Especially where a product is designed for use as an adjunct to leisure, it is impossible to distinguish between the product and the life-style of the user.

Conclusion

My remarks are not intended to convey a lack of appreciation for the extraordinary service of the Surgeon General. His intense concern for the health problems of the Nation and his energy in seeking solutions for them have justly earned him widespread respect and admiration. It is, however, necessary to temper his zeal for doing everything possible to alleviate the problems of alcohol abuse with a recognition that his well-meaning attempts at speech regulation are both highly unlikely to deal effectively with the underlying problem and virtually certain to do lasting damage to the fabric of the First Amendment. Accordingly, while ANA pledges its support for truly voluntary programs of education and treatment, ANA opposes as violative of the First Amendment any attempt to engage in coercive speech regulation.

Respectfully submitted,

Burt Neuborne

TESTIMONY OF

F.A. MEISTER, PRESIDENT & CEO
DISTILLED SPIRITS COUNCIL OF THE UNITED STATES, INC.

BEFORE

SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

ON

"AVERTING ALCOHOL ABUSE"

JUNE 21, 1989

I. Introduction

I am Fred A. Meister, President and Chief Executive Officer of the Distilled Spirits Council of the United States, Inc. (DISCUS). DISCUS is a national trade association representing the manufacturers and importers of over 85 percent of the distilled spirits sold in the United States. We commend the Chairman and the Committee for holding such an important hearing. We welcome the invitation to testify today because the problem of drunk driving is of vital concern to our industry. Since we were not invited to participate in the Surgeon General's Workshop, we are gratified to be included in this hearing.

I have two major policy points to make in my testimony today. First, our industry strongly and actively shares Dr. Koop's goal, as well as the goal of all Americans, to reduce and eliminate the tragedies caused on our highways by drunk driving. Those of us who work in the alcohol beverage industry--and our sons and daughters--drive on the same roads you do. All of us in the alcohol beverage industry abhor any abuse of our products. DISCUS and its members have supported, and continue to support, programs aimed at reduction of alcohol abuse. We have a long and well-recognized history of responsibility in combatting alcohol abuse and drunk driving and in encouraging responsible use by those who choose to drink. We are dedicated to these efforts.

My second point concerns the nature of the public policy debate over the use of alcohol in our society. Increasingly the focus of debate has been on the very use of alcohol beverages, rather than on abuse. The totality of the Surgeon General's Workshop recommendations moves toward encouraging zero use of alcohol beverages as a means of addressing drunk driving. A zero-use agenda attempts to eliminate alcohol abuse by a plethora of controlling and restrictive measures whose practical effect would be to virtually eliminate all use of alcohol beverages, or to restrict use to a de minimus level.

We believe that such an agenda does not reflect the mores and history of our society. It conflicts with and contradicts real-life experiences. The reality is that the alcohol user is not necessarily the alcohol abuser or drunk driver. The reality is that the drunk driver in our society is the heavy problem drinker, the recidivist, with a blood alcohol concentration of twice the legal limit of 0.10. The reality is that the overwhelming majority of Americans who choose to drink, do so responsibly.

The public policy debate concerning alcohol beverages should center on how to best direct the resources of our society to reduce drunk driving specifically, and alcohol abuse generally. The two primary solutions are strict and consistent law enforcement for those who break the law and education for all of society concerning responsible use of alcohol.

I am not here today to discuss the merits of the Surgeon General's recommendations in terms of a zero-use agenda.

Viable public policy initiatives should focus on the tragedy of drunk driving by promoting and ensuring the responsible use of alcohol beverages in our society. The abuser--not the user--should be the target of our joint efforts. The primary aim should be to make drunk driving--not all drinking--socially unacceptable.

II. Responsible Use Versus Zero Use

Public policy initiatives grounded in responsible use of alcohol beverages are not new. This public policy perspective concerning responsible use had its genesis in, and has been endorsed and reendorsed by, every major government effort in the field of traffic safety and drunk driving for over two decades. Beginning with the 1966 Federal Highway Safety Act and culminating in the 1982 Presidential Commission on Drunk Driving and its successor organization, the National Commission Against Drunk Driving, responsible use programs focus on those individuals actually involved in drunk driving, rather than on all individuals who choose to drink. These efforts recognize that no one approach, no single emphasis, will reduce the complex problem of drunk driving. Sound laws, strict enforcement, even-handed adjudication, education, and treatment (for those who need it) are required together as part of a comprehensive systems approach.

These long-standing government programs premised on the responsible use of spirits, beer, and wine by those who choose to drink, are the most effective means of addressing the tragedies caused by drunk driving. The cornerstone of these efforts is to make alcohol abuse socially unacceptable. Strong, recent efforts at changing social behavior regarding drunk driving provide optimism that such change can and is being effected. The United States has the safest highways of any country in the world. There has been a steady decline in alcohol use by drivers involved in fatal accidents in the United States, especially among teenagers. The percentage share of traffic fatalities involving intoxicated drivers has dropped a sixth between 1982 and 1987. The number of intoxicated teenage drivers involved in fatal accidents has declined by over 30 percent between 1982 and 1987. Despite this progress, we strongly believe that much more still needs to be done through enforcement and education to further reduce drunk driving.

The Workshop's recommendations should be reviewed and evaluated in terms of responsible use of alcohol by those who choose to drink, and thus in the context of almost three decades of concerted effort and research undertaken by the government and other experts. Their developed record and expertise should not and must not be ignored in identifying solutions, nor summarily jettisoned or driven off course by recommendations that are unsupported by research or experience.

Framing public policy in terms of responsible use also is in keeping with the Surgeon General's charge to the Workshop to develop a research-supported, cost-effective strategy to address the issue of drunk driving, and that such strategy should reflect an objective assessment of its inherent public policy implications.

We believe the Workshop's zero-use agenda would introduce a host of unwarranted government regulations and penalties into the lives of responsible users. The Workshop recommendations would violate the legitimate First Amendment rights of advertisers, prohibitively increase the taxes on and prices of alcohol beverages, and severely restrict the marketing of these products. These measures would have a negative effect on the responsible consumer, but little effect on the alcohol abuser.

Advertising has not been shown to cause an individual to begin drinking or to abuse alcohol beverages. For example, after examining the issue of advertising and alcohol beverage consumption, the Federal Trade Commission concluded in its 1985 report that its "review of the literature regarding the quantitative effect of alcohol advertising on consumption and abuse found no reliable basis to conclude that alcohol advertising significantly affects consumption, let alone abuse." In addition, the Workshop recommendations overlook the DISCUS Code of Good Practice, which provides that distilled spirits should not be advertised on public television and radio. In existence since 1936, the Code has been voluntarily adopted, and adhered to, by all of our members.

The Workshop tax proposals would increase the price of distilled spirits by 85 percent, a price increase that would penalize middle- and lower-income consumers, to say nothing of the effect such proposals would have in lost state and local revenues and lost jobs in the industry. These increased taxes would burden the responsible consumer of alcohol beverages and virtually destroy half of the industry.

What has worked in tackling drunk driving? Promoting responsible use and discouraging and deterring alcohol abuse. Some of the Workshop's recommendations adopt this course of action--tougher and more uniform law enforcement and reinforced education efforts. We support such action.

The progress made in reducing drunk driving fatalities often is measured in statistics, but these statistics do not hide, and we do not lose sight of, the fact that each statistic was somebody's son, daughter, spouse, or friend. For this reason, we must continue to address the tragedy of drunk driving with proven solutions--programs that are undergirded with research and have a proven track record.

III. The Surgeon General's Workshop In Perspective

With few exceptions, the recommendations from the Surgeon General's December 14-16, 1988, Workshop on drunk driving have all been offered at one time or another over more than two decades. Not only is there some reinventing of the wheel in these recommendations, but also they overlook the substantial prior experience and expertise that have been devoted to this issue and the successes that have been achieved. The 200-plus Workshop recommendations constitute a veritable morass of good, bad, and unworkable ideas.

Unlike the three-day Workshop, the Presidential Commission on Drunk Driving began its deliberations by attempting to understand the causes underlying the drunk driving problem. These causes have been identified by expert panels under the auspices of the government in various studies it has undertaken in the last two decades. These studies concluded that drunk driving accidents generally are caused, or could be caused, by either chronic problem drinkers who regularly abuse alcohol or by youth who mistakenly believe they are omnipotent. After identifying the offender and the potential offender, the Commission consulted experts to ascertain the most effective means of deterring this behavior, and concluded that changing society's attitudes and practices--

approving appropriate behavior and discouraging or punishing inappropriate, problem behavior--were the blueprint for reducing drunk driving.

To achieve this objective, the Presidential Commission adopted the comprehensive systems approach to traffic safety, which includes (1) all elements of the driving task--vehicle, road and roadside environment, and driver; and (2) all segments of law, enforcement, judiciary, education, and treatment. This means that no single issue or focus distorts the total effort. The Workshop's recommendations, however, single out alcohol, and in doing so, overpromise that the solution to the traffic safety issue lies solely in pushing alcohol beverage use toward zero. Conversely, by focusing on the abuser, rather than on all consumers, the systems approach targets the person most likely to be involved in alcohol-related accidents.

Unlike the appointment of the 1982 Presidential Commission on Drunk Driving, with its balanced, representative composition; comprehensive deliberations; and wide accumulation of public statements and testimony--resulting in a compact, substantive final report--the entire process of the Surgeon General's Workshop we believe was hasty, abbreviated, and exclusionary.

The appointees to the Presidential Commission represented professionals from the traffic safety system, legislators, judges, state police, state-appointed officials, members of Congress, traffic safety experts, private citizens, business leaders (including alcohol beverage industry representatives), with Mr. John Volpe, a former governor and Secretary of the Department of Transportation, as Chairman--aided by a knowledgeable professional staff, including

Dr. John Moulden and Mr. Charles Livingston of the National Highway Traffic Safety Administration and Dr. John Grant, program director for the private-sector successor to that Commission. DISCUS also was named as a member of this Presidential Commission.

The Presidential Commission held public hearings beginning in August, 1982, in various regions around the country and concluded with a November, 1982, hearing in Washington, D.C. The full Commission voted on each of the recommendations and issued a final report to President Reagan in November, 1983.

The Report of the Presidential Commission was the culmination of 18 months of work. It has been and is recognized as a baseline on how to address drunk driving. The Presidential Commission looked at a wide variety of issues and endorsed a set of 38 recommendations that DISCUS fully supported, with the exception of one recommendation concerning the 21-year-old drinking age, which DISCUS believed was an issue more appropriately left to each state to determine. (DISCUS always has supported each state's decision concerning a minimum drinking age and blood alcohol concentration level.)

The recommendations of the Presidential Commission focus on six key elements:

> "First, drunk driving must be recognized as socially unacceptable. We must focus on bringing about changes in society's attitude of toleration toward drunkenness and drunk driving. The public must realize that the grave consequences of driving under the influence require each of us to take the personal responsibility for prevention in our own social circles.
>
> Second, since attitudes about drinking and driving are largely shaped within the community, and because the primary administrative responsibility for our efforts to combat drunk driving rests with the

> groups and governments at that level, efforts must have a community focus.
>
> Third, because attempts to deal with the problem involve a large number of governmental agencies and private groups, a systems approach must be employed to ensure that the activities of these groups are coordinated and interrelate smoothly to enhance their effectiveness.
>
> Fourth, in order to ensure that our laws play their proper role in discouraging the largest possible number of potential drunk drivers, States and localities should take a general deterrence approach in developing short-term remedies to the problem, with the focus on increasing the perception of risk of arrest.
>
> Fifth, to help develop personally responsible drinking and driving behavior, and to build a community consensus behind effective countermeasure programs, citizen support through grassroots groups must be encouraged.
>
> Sixth, because drivers under the influence are responsible for this problem with its great resulting human cost, it is appropriate that offenders should defray the costs of enforcement, prosecution, adjudication, treatment, and education." (Emphasis in original.)

The Commission stressed that the program outlined in its recommendations be sustained for at least a decade to achieve a lasting impact. This recommended decade-long commitment to the multifaceted approach advocated by the Commission deserves more than the half-life given it by the Workshop's recommendations.

We recommend that the Committee look to the Presidential Commission's Report--and its progress in reducing drunk driving--in its deliberations concerning how to address this issue, and support the continuation of the efforts based on that Report. The Report reflects a sound approach--an approach that should be continued.

By contrast, the process for the Surgeon General's three-day Workshop in December, 1988, was not begun until the summer months preceding it. Eleven panels covering different aspects of the drunk driving topic were constructed. Background papers of about 15 pages, fewer in some cases, were prepared by single authors, or joint authors and multiple papers in some cases, for each of the 11 panels. DISCUS and other organizations in the beverage alcohol industry and advertising industry were not invited to the Workshop. In an attempt to open proceedings, the National Beer Wholesalers Association filed suit. As part of the settlement, interested parties were allowed to submit comments for the Workshop's consideration.

After two days of meetings, the panels prepared their recommendations, presumably based on internal discussions and "brainstorming." The recommendations were typeset and printed overnight for presentation to the Surgeon General on December 16, 1988. Groups not permitted to participate in the Workshop were accorded a 30-day period to file comments, with the period ending on January 31, 1989. The May 31 Department of Health and Human Services release of the recommendations, however, showed that no substantive changes have been made since December 16, 1988.

IV. The Industry as Part of the Solution to Drunk Driving

DISCUS unequivocally opposes the operation of motor vehicles (cars, trucks, snowmobiles, boats, recreational vehicles) by intoxicated persons, and we are vehemently against underage drinking. The industry is not a newcomer to this problem, nor is it a bystander. Our efforts concerning the issue of drunk driving span over 40 years. We consistently have supported a multifaceted approach--the systems approach--to reducing this complex problem. This balanced systems approach involves enforcement, prosecution, treatment, rehabilitation, and education programs--all stressing that drunk driving is socially unacceptable, and that each segment of the traffic safety system has an important role in coordinated action to reduce personal injury and property damage caused by drunk driving.

Our efforts have included providing grants to various universities to support scientific research, developing and sponsoring numerous public service advertising campaigns, and funding the development of educational materials for use in elementary and secondary schools, colleges, and other institutions.

To increase our ability to reach the public at large, DISCUS conducts cooperative programs with government agencies and other groups. These government agencies include the Departments of Transportation (DOT), Health and Human Services, and Treasury. Other groups have included the Education Commission of the States, the National Association of State Boards of Education, the March of Dimes, Students Against Drunk Driving (SADD), the National Football League (NFL), the National Education Association, the Rutgers Center of Alcohol Studies, the National Association of Women Highway Safety Leaders, the American Association of University Women, the American Council on Alcoholism, Harvard Medical School, the Health Education Foundation, the Alcohol & Drug Problems Association, and numerous other organizations, on national, state and local levels.

Among the efforts undertaken concerning drunk driving over the last four decades, DISCUS has:

- Funded the development of breath test measurement devices during the late 1940s--the most commonly used tool to enforce drunk driving laws.

- Co-sponsored distribution of 80 million "Know Your Limits" (KYL) cards used in extensive education efforts against drunk driving.

  The KYL card stresses that it is best not to drive after drinking. Still, the real-life experiences of tens of millions of motorists who may drive after drinking show that any educational material that encourages drivers to know their individual limits is a step in the right direction.

  The research-based KYL card helps unscramble the complexities of blood alcohol concentrations; the card shows in tabular form the relationship between blood alcohol level, the amount of alcohol consumed, body weight, and rate of consumption.

  Since 1972, DISCUS has co-sponsored KYL campaigns in 35 states and the District of Columbia. The Department of Transportation endorses the KYL effort, and over the years has twice sponsored national KYL campaigns with DISCUS. Since the program began, millions of KYL wallet cards have been distributed by government agencies, industry groups, private organizations, and DISCUS.

- Sponsored and co-sponsored public service advertising against drinking and driving.

Our modern era moderation messages began in 1972, built on an industry tradition that dates back to Repeal. DISCUS placed print advertising campaigns in national news magazines, with the goal of encouraging those who choose to drink to do so responsibly. The campaign evolved into massive public service advertising (PSA) programs. For example, the industry-sponsored theme of "If you choose to drink, drink responsibly," evolved into award-winning messages: "A license to drive doesn't mean a license to drink"; "Anyone who can't walk a straight line, can't drive one."

These messages appeared in virtually every kind of print media, with millions of dollars in space donated by national and regional magazines, daily newspapers, subways and commuter trains, and the industry trade press. In addition, counselors, student advisers, and others adopted the messages, often reprinting them for school and agency use.

During several Christmas/New Year holiday seasons, DISCUS has projected the industry's concern about drunk driving by sponsoring a message on the electronic billboard in Times Square. This opportunity enabled us to tell an audience of over ten million in a major market--New York--to "Know Your Limit. And stay within it."

DISCUS also has sponsored several radio PSAs aimed at responsible consumption of alcohol beverages by those who choose to drink. For example, the PSA entitled "Safety and Summertime: The Perfect Mix" urged its listeners to know their personal consumption limit and to stay within that limit. The campaign entitled "A New Year of Safety," released during the holiday season, cautioned listeners about the importance of safe driving in the year ahead, and contained the following message: "If you choose to drink, know your own personal limits and stay within them. The safest bet is not to drink and drive."

- Provided teenage driver education materials opposed to drinking and driving.

An example of one highly successful program has been an effort directed to teenagers sponsored by DISCUS, the NFL, and the Education Commission of the States, which was joined by the National Association of State Boards of Education (NASBE) and SADD. The program, which was launched in 1976, combined public service advertisements broadcast during NFL games; educational materials for use by schools and parents; and posters, football schedules, and other materials containing educational messages directed to teenagers. This effort was geared toward helping parents educate young people about the facts of alcohol beverages.

DISCUS also has supported cooperative projects with NASBE to help states meet basic alcohol education needs in the classroom and community. A NASBE brochure explains the Association's Alcohol Education Guidelines Project, which provides technical support and assistance to state boards of education in developing their alcohol education policies and programs. This brochure stresses that alcohol education programs "are a practical approach for schools to take in dealing with teenage alcohol use and abuse. They provide a direct and effective way to approach prevention of a problem, rather than after-the-fact treatment of the casualties."

- Co-sponsored the "Friends Don't Let Friends Drive Drunk" campaign.

DISCUS is part of an industry-wide coalition known as the Licensed Beverage Information Council (LBIC), representing brewers, vintners, distillers, wholesalers, and retailers. In the area of drunk driving, LBIC's most publicly visible, extensive public education effort dealing with drunk driving has been the "Friends Don't Let Friends Drive Drunk" campaign. Co-sponsored with DOT and the Outdoor Advertising Association, this multi-year program has resulted in more than 8000 billboards posted nationwide. Repetitive broadcasts of our radio and TV messages, by a majority of stations, has been made possible via satellite transmission by the National Association of Broadcasters, an endorsement by DOT Secretary Elizabeth Dole, and the cooperation of the National Commission Against Drunk Driving.

In a 1983 radio address, President Reagan applauded the industry's participation in the campaign, and in 1988, LBIC was honored with the C-Flag award as part of President Reagan's Citation Program for Private Sector Initiatives.

- Co-sponsored several conferences on drunk driving.

With DOT, the National Safety Council, and others, DISCUS has co-sponsored national conferences on drunk driving. For example, as a member of LBIC, DISCUS co-sponsored with the National Commission Against Drunk Driving the first national project on the effective identification and treatment of DWI chronic repeaters, the major cause of the drunk driving problem. DISCUS also has cooperated with major universities, such as Michigan and Rutgers, to disseminate knowledge on the treatment of repeat offenders, and supports the annual Lifesavers Conferences on traffic safety. Such active sponsorship is in accord with our industry's long-standing policy of facilitating the sharing of professional experience and the latest information about the drunk driving problem.

- Provided public information materials.

Each year, DISCUS receives several thousand requests for public information on responsible drinking from various schools, educators, consumers, and restaurant and tavern owners. To accommodate these requests, DISCUS offers numerous publications on drunk driving, alcohol abuse, teenage drinking, and other vital topics. Examples of our more recent brochures include:

"Resources for Responsible Drinking";

"Thinking About Drinking"--prepared for young people as a basis for discussion of attitudes about drinking;

"No One Answer"--a closer look at teenage drinking;
"Staying On Course";
"Know Your Limits";
"Public Service Advertising."

In addition to these efforts, DISCUS has long recognized that parents and teachers are not alone in forming the behavioral patterns and actions of young people. Peer groups play a vital role in determining acceptable behavior and influencing the lifestyle choices of young people. For this reason, DISCUS was an early and active supporter of the two major, nationwide networks of students organized to help one another make responsible decisions about drinking--BACCHUS and SADD.

BACCHUS (Boost Alcohol Consciousness Concerning the Health of University Students) advocates a peer-based approach to alcohol education, encouraging responsible drinking behavior within the college campus community. It has member chapters in more than 325 colleges and universities throughout the United States and Canada. BACCHUS was given early national exposure through the DISCUS-NFL TV ads and has received strong financial support from DISCUS, individual distillers, and other alcohol beverage industry groups.

DISCUS has provided annual financial grants to assist SADD in its programs. SADD is a nationwide high school student group whose mission is to educate high school students about the risks of drinking and driving, and to promote respect for all laws relating to the use of alcohol beverages.

The industry's commitment to public education concerning the problems of alcohol abuse is undiminished. Each of DISCUS's programs was undertaken with the advice and cooperation of experts and government agencies that have determined that these measures would best address the potential tragedies of drunk driving. Each of these programs has been implemented with the support of member companies. (A bibliography of representative DISCUS programs is submitted with this testimony.)

V. What Works/What Does Not

Product-oriented control measures have not been effective. In fact, a major result of such measures has been to distract attention from the needs of alcoholics and alcohol abusers. Empirical evidence of the failure of product-oriented control measures to effect success is reflected in the experience of Sweden, a country known for its highly restrictive measures concerning the availability of beverage alcohol. Sweden's progress in tackling drunk driving lags behind that of the United States, which has the best record in reducing traffic fatalities.

Despite this fact, the Workshop recommendations, especially those of the Advertising/Marketing and Availability/Pricing panels, endorse a product-oriented control approach. Perhaps recognizing the questionable efficacy of such an approach, some of the Workshop's recommendations introduce a novel concept concerning the implementation of these recommendations. For example, the Advertising/Marketing panel made a series of recommendations proposing severe restrictions on alcohol beverage advertising. The panel called for immediate and sweeping changes that would curtail severely the ability to advertise alcohol beverages. Once these restrictions were implemented, the panel recommended that research then be undertaken to determine the effect of alcohol advertising on alcohol consumption. Such research properly and logically should be done prior to the implementation of such recommendations, not vice versa.

Similarly, some of the recommendations put forth by the Education panel on the one hand recommended "[e]ducat[ing] the public . . . concerning the effects of marketing and advertising by the alcohol beverage industry regarding alcohol consumption," and on the other hand recommended that the government "[c]onduct ongoing systematic evaluation of the alcohol beverage industry's advertising, marketing and promotion efforts and their relationship to alcohol consumption and drunk driving [and] explore the relevance of these efforts to educational initiatives." (See Recommendations D-17; D-21.)

These panels apparently lost sight of the very large body of information already in existence concerning alcohol advertising and alcohol consumption/alcohol abuse. Virtually every study has shown that there is no evidence that brand advertising causes someone to drink or increases alcohol consumption. Nor is there any scientific evidence that brand advertising encourages drinking by alcoholics and heavy drinkers. In 1985, the Federal Trade Commission concluded that "little, if any, evidence exists indicating that alcohol advertising or marketing practices deceptively or unfairly result in alcohol abuse or even increased consumption."

There is, however, empirical evidence from the United States and abroad that banning liquor advertising does not reduce consumption. A 1975 study on beverage alcohol advertising conducted for the Joint Committee of the National Alcohol Beverage Control Association, Inc., and the National Conference of State Liquor Administrators found that "the restrictiveness of [state] advertising control had no effect upon per capita consumption of alcoholic beverages." Similar results have been found for British Columbia, Manitoba, Norway, Finland, and the Soviet Union, where experiments concerning alcohol advertising restrictions have not resulted in a change in alcohol consumption or a reduction in alcohol abuse.

Putting aside the research literature, existing government regulations ensure fairness and disclosure in liquor advertising. The Federal Alcohol Administration Act (FAA Act) ensures that all alcohol advertisements conform to Bureau of Alcohol, Tobacco and Firearms (BATF) regulations. The FAA Act and BATF regulations prohibit advertising that is "false, misleading, obscene, or indecent" or which makes "curative or therapeutic claims."

In addition to the industry's compliance with federal and state regulations concerning advertising, the DISCUS voluntary Code of Good Practice for spirits advertising, which was adopted in 1936, shortly after the repeal of Prohibition, contains recommendations that distilled spirits should not be advertised on public television and radio. In other forms of media, the Code contains recommendations that restrict the advertising of distilled spirits to responsible adult consumers, prohibit advertising of distilled spirits to minors, and provide guidelines to ensure that any advertising is presented in a tasteful and dignified manner. This self-regulation is consistent with the industry's commitment to responsible drinking by those who choose to drink.

Another example of the Workshop's ungrounded focus is found in the recommendations of the Availability/Pricing panel. The Availability/Pricing panel recommended increases in federal and state excise taxes on alcohol beverages. These recommendations in essence would use the tax code for social engineering purposes, yet they fail to address the issue that the tax would be borne by all consumers and not just the abuser. Nor do these recommendations reckon with the issue of how tax increases would address the problem of the abuser versus the responsible user of alcohol beverages. The public policy gap apparently is to be satisfied by the additional recommendation that research should be undertaken to determine whether increased taxes will have any effect on drunk driving. (See Recommendations A-15; A-16.)

In a supporting Workshop paper, it is asserted that the implementation of the Working Group's pricing recommendations concerning distilled spirits would result in a $5.4 billion increase in federal excise taxes. Such revenue projections contradict prior experience. For example, total federal spirits excise tax collections for the three years following the 1985 federal excise tax increase on distilled spirits fell short of the Joint Tax Committee estimates by $2.7 billion. The 1985 tax increase of 19 percent on liquor caused sales to drop three times as fast as they had averaged during the previous five years. Over 61,000 retail, wholesale and manufacturing jobs in the liquor and related industries were lost, and up to 5000 businesses, primarily small retailers, were forced out of business. State and local governments lost over $127 million as a result of this federal excise tax-induced decline in sales volume.

Implementation of the Surgeon General's tax proposals would increase federal excise taxes by over 170 percent and average state taxes by over 120 percent on distilled spirits, resulting in a substantial increase--over 85 percent--in distilled spirits prices. Sales volume of spirits would fall by almost 40 percent in the first year alone. The effect of these tax proposals at all government levels would produce a $3.8 billion net gain in liquor-generated revenues--a far cry from the Workshop panelists' estimation that at the federal government level alone such increases would result in a $5.4 billion gain in just federal excise tax revenues. State and local governments would bear the brunt of these proposals in the loss of potential revenues despite the fact that it is these governments that shoulder the economic and societal costs of drunk driving. In terms of labor and jobs in the United States, implementation of the Workshop tax proposals virtually would wipe out half the employment generated inside and outside the distilled spirits industry.

The recommendations by the Availability/Pricing panel do not meet the Surgeon General's charge to the Workshop:

> "[We] need to devise an overall strategy for carrying out . . . a national plan. In these days of restricted and limited resources, we must make every person and every dollar count. That means not only having a plan, but also having a coherent and cost-effective approach to the implementation of that plan."

The systems approach, which specifically and more directly focuses upon the abuser and the potential abuser, has fully met, and is fully meeting, this charge. Recommendations such as those proposed by the Availability/Pricing panel are indiscriminately borne by all consumers, and in the end the responsible user, the government (both local and federal), and the industry all lose. This loss, however, is not ameliorated or remedied by a sounder or more effective approach to address the tragedy of drunk driving on our nation's highways. Swift and certain punishment of the abuser who causes accidents, rather than high taxes that penalize the consumer, should be used as the deterrent to drunk driving.

VI. What Can Be Done to Continue to Reduce Drunk Driving

Much has been done and much continues to be done to reduce and eliminate drunk driving. We support the continued implementation of the recommendations contained in the Presidential Commission's Report, some of which are carried forward in the Surgeon General's Workshop recommendations. To implement these recommendations, we suggest the following:

1. Continued use of, and emphasis on, public education messages.

2. Enhancement of programs such as employee assistance programs that provide yet another avenue by which problem drinkers, who cause much of the highway mayhem, and alcoholics can be identified and referred to professional help to bring their chronic excessive drinking--and the host of problems that often accompany such behavior--under control.

3. Improvements in the traffic safety system. An outstanding example, one in which important gains in curbing the DWI problem would result, is the need for electronic access to driver

records nationally. As it is, convicted drunk driver can go to another state for a new operator's license; the issuing state does not have the ability to quickly, routinely check the driver's record in other states.

4. Continued recognition of the different population groups involved in the drunk driving problem. This recognition leads to more carefully targeted approaches, a vital necessity in view of the continued reality of selective enforcement and limitations on financial resources to meet the full range of social and health problems, both nationally and locally.

5. Continued recognition of the systems approach as the most balanced, effective method to continue the progress of the past four decades in reducing injuries and deaths on the roads. Sound, workable laws; strict enforcement; timely and fair adjudication; education; and (where warranted) treatment for problem drinkers and alcoholics convicted of DWI can further reduce this complex problem.

As stated in the Presidential Commission's Report:

> Effective responses to driving under the influence must take a systematic approach. Piecemeal responses suggesting we can solve the problem by quickly changing laws or adding a few new programs are not likely to succeed. Such approaches fail to recognize that our past failure to respond effectively to the problem is not simply a result of the lack of a particular law or program. State and local officials, and leaders of public and private groups must take a systematic view of the problem, a view which recognizes the interrelationships between legal, health, public informational, educational and technological responses to the problem. The response

must include all elements of society, it must involve the individual, and it must be sustained over a long period of time.

Conclusion

We believe it is a fundamental public policy inequity to penalize the majority of consumers who use beverage alcohol responsibly for the abuse by a minority. Restrictions on availability penalize all consumers and divert the focus of attention and resources away from those who seriously need specialized help. It is more effective and more equitable to use enforcement, education, treatment, and prevention programs to reduce alcohol abuse. Public health, safety and education programs are targeted directly to the problem drinker, without interfering with the responsible use of beverage alcohol by those who choose to drink.

Steadily guided by research and education, and alcoholism and traffic safety experts, DISCUS and the leaders of the distilled spirits industry support, and are committed to continue to support, sound approaches to reduce and eliminate the tragedy of drunk driving. We believe that the perspective that runs consistently throughout our programs represents the most viable prevention strategy. We should build on a solid record--a proven track record--to address the problem of drunk driving in our society.

STATEMENT

BY

HAMILTON BEAZLEY

PRESIDENT

NATIONAL COUNCIL ON ALCOHOLISM

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

June 21, 1989

NCA is a nonprofit organization combating alcoholism and other drug addictions

Thank you for affording the National Council on Alcoholism the opportunity to testify about Surgeon General Koop's landmark report and recommendations on initiatives to reduce drinking and driving in America.

NCA is the national nonprofit organization combating alcoholism, other drug addictions and related problems through its national office, close to 200 state and local affiliates, and thousands of volunteers in communities throughout America. Founded in 1944, NCA's primary mission is education, prevention, and public policy advocacy.

As advocates for alcoholics, other drug addicts and their families as well as for alcohol and drug policy in the best interests of the public health, we have a keen interest in efforts to reduce the enormous human and economic toll of drinking and driving. In 1986, the National Council on Alcoholism adopted its own comprehensive Policy Recommendations on Drinking and Driving which bear remarkable similarities to the report recently advanced by the Surgeon General. (We have included this NCA policy statement as a component of our testimony).

Like the Surgeon General and the many experts he convened for his December, 1988 workshop on drunk driving, we view drinking and driving as a complex public health and safety problem. This problem necessitates a comprehensive strategy if we are to realize substantial reductions in the incidence of drinking and driving and its tragic consequences. In our view, the strength of the Surgeon General's report is its fusion of public health and highway safety concerns and its implicit recognition that the level and promotion of alcohol consumption in this society are directly related to the level and severity of its drinking and driving problem.

For too long, local and state initiatives to address alcohol impaired driving have proceeded from a belief that drinking patterns and practices have little or no relation to driving under the influence of alcohol. For too long, the obvious paradox of airing public service announcements urging individuals not to drink and drive coupled with alcohol ads which glorify alcohol use in high risk situations, including driving, has been overlooked. For too long, we have neglected to link the eroding price of beer, the overwhelming beverage of choice for youth and drunk drivers, with the tragic deaths of young Americans lost on our nation's highways.

The recommendations generated by the Surgeon General's workshop provide a framework for moving our nation forward to address this devastating problem.

The Surgeon General's plan is comprehensive. Eleven panels (11) produced recommendations in the areas of: pricing and availability, advertising and marketing, epidemiology and data management, education, judicial and administrative processes, law enforcement, transportation and alcohol service policies, injury control, youth and other special populations, treatment, and citizen advocacy.

The National Council on Alcoholism offers unqualified support for the Surgeon General's leadership in developing this workshop and for his adamant refusal to allow outside vested interests to compromise its mandate. NCA responded in writing to the draft recommendations during the comment period provided. We offered for consideration a number of additions and changes of emphasis. For example, we suggested that a call for local and state laws which prohibit the concurrent sale of alcohol and gasoline would be an appropriate addition to the Price and Availability recommendations. We also called for greater emphasis on treatment and argued that screening for identification of alcoholism, referral to treatment and health insurance coverage for alcoholism treatment are essential provisions of a comprehensive drinking and driving program. Although these and other recommendations were not included in the final report, NCA and its almost 200 affiliate councils stand ready to work actively at the local, state and national levels to implement the Surgeon General's recommendations. Already, NCA is involved in the planning process for the new National Coalition to Prevent Impaired Driving.

We have spent many years and dollars trying to reduce the incidence of alcohol related crashes in this country. To date, our efforts have yielded limited results. More than 52.1 percent (23,987) of all highway deaths are alcohol related (National Highway Traffic Safety Administration, 1986) and 2 out of every 5 people in the United States will be in an alcohol related crash in their lifetime (National Highway Traffic Safety Administration, 1987). Alcohol-related traffic crashes killed nearly 9,000 15-24 year olds in 1986 (NHTSA, 1986).

While the alcoholic beverage industry and the advertising industry have spent many dollars on the "drunk driving" issue, their efforts have done little to contribute to a real reduction in the problem. In fact, many of these educational efforts have clouded rather than clarified public perceptions by offering vague messages and by refusing to address high-risk drinking practices, including drinking to intoxication.

The most significant action to reduce alcohol related crashes was the enactment of the Minimum Drinking Age in 1984. This law prohibits the sale of alcoholic beverages to individuals under the age of 21 by withholding significant federal highway aid to states not in compliance. It sent a clear message that we, as a nation, do not find alcohol consumption for youth appropriate, regardless of the region of the country or the type of alcoholic beverage consumed. This is a measure which we fought long and hard to enact with no support from either the advertisers or the alcoholic beverage industry.

All past efforts to address drinking and driving have failed to focus attention on the role of alcohol consumption in the problem. The industry has been successful in getting many of us to believe it's just a question of knowing "when to say when" or "your limits."

Messages that implicitly endorse the plausibility of drinking and then driving presume the ability of an individual who has been imbibing a mood-changing drug to make an informed decision about his or her level of impairment and capacity to drive safely. In our view, the alcoholic beverage industry has played a significant role in modifying anti-drunk driving messages and infiltrating anti-drunk driving groups by, among other things, giving them financial support. Their aim is to insure that there is no conflict with their economic interest in maintaining high levels of alcohol consumption. Industry spokespersons are quick to advocate for so-called "responsible drinking" and eager to urge increased sanctions for those who "abuse" their products. However, it is difficult to get anyone from the alcoholic beverage industry to offer precise definitions of either "alcohol abuse" or "responsible drinking."

Obviously, in the case of alcohol, what is moderate to one individual is excessive to another. Beer company publications targeting college students have been so bold as to equate moderate consumption with 4-6 drinks a day. While popular on college campuses, these publications are seldom circulated by alcohol lobbyists in the halls of Congress.

Some clarification and information about American alcohol consumption patterns and definitions of low and high risk drinking are important. Our source for this information is the Sixth Special Report to the U.S. Congress on Alcohol and Health (1988) from the Secretary of Health and Human Services. National surveys of drinking practices indicate that approximately one-third of the U.S. population ages 18 and over are abstainers, one-third are light drinkers, and one-third are moderate to heavy drinkers. Although two-thirds of the adult population drink, actual consumption of alcohol is very unevenly distributed throughout the drinking population. **The ten percent of drinkers (6.5 percent of the total adult population) who drink the most heavily account for fully half of all alcohol consumed**, with the other half accounted for by 90 percent of the drinking population who are infrequent, light, or moderate drinkers.

With regard to drinking practices, the 1988 Surgeon General's Report on Nutrition and Health defines consumption over the level of two drinks a day or 14 drinks a week as heavier drinking with accompanying health and safety risks. There are, of course, qualifiers on this level of drinking. There is no safe level of alcohol consumption for alcoholic persons, pregnant women or underage youth, and we believe, drivers of motor vehicles. It is clear that if every American drinker confined his or her drinking to a low risk level, alcohol-impaired driving as well as other alcohol-related health and social problems would decrease dramatically. We think it is precisely this kind of concrete information about what constitutes low-risk drinking which should provide the subject matter for public service announcements, counter advertising, and additional health labeling on alcoholic beverage containers and advertising.

Unfortunately, neither the alcoholic beverage industry nor the advertisers and broadcasters are likely to support a message which focuses on "low" or "no risk" drinking. While they may rail against the "alcohol abuser" who they allege give their product a bad name, that same individual represents their most important market.

The alcoholic beverage industry may be the only industry that spends substantial time deriding their best customers. This approach does a number of things. It continues to encourage people to drink and drive, just don't get drunk. It also perpetuates a myth that those with real alcohol problems -- alcoholics -- are an irresponsible minority. Scapegoating so-called alcohol abusers may be a root cause of our limited success in reducing the number of repeat drunk driving offenders. If we don't couple sanctions with treatment, all the fines and mandatory sentencing in the world won't prevent an alcoholic from getting behind the wheel intoxicated again.

A chief recommendation of the Surgeon General's Workshop is to increase the Federal excise tax or user fee on alcoholic beverages, and equalize taxes by alcohol content for beer, wine and distilled spirits. This public policy measure has been supported by many of the leading experts in this country as the single most important action we could take to reduce the incidence of alcohol related crashes among our nation's youth. NCA supports this measure. We are members of the National Alcohol Tax Coalition and have testified before Congress in support of higher alcohol excise taxes.

Federal taxes on beer and table wine were last increased in 1951. The tax on distilled spirits rose 19 percent in October 1985 but still lags well behind documented inflation since 1951. Adjusted for inflation, beer and wine taxes are lower than they have ever been since the end of Prohibition. Static taxes have allowed the real price of beer to fall 27 percent, of wine to fall 21 percent, and of distilled spirits to fall 48 percent between 1951 and 1983 (CSPI, 1989). A recent survey of stores which sell liquor in the Washington, D.C. area found that a six pack of beer could be purchased at the same price as a six pack of soda.

The failure of alcohol excise taxes to keep up with inflation has been a windfall for the alcoholic beverage industry and a disaster for the public health and the Treasury. It has meant the loss of about $80 to $100 billion in additional revenues between 1952 and the present.

There is strong and diverse public support for raising excise taxes on alcoholic beverages. Polls demonstrate that a large majority of the American public supports higher alcohol taxes. An August, 1984 Roper survey found that 77 percent of leadership persons surveyed (corporate executives, federal legislators, governors, religious leaders, educators, physicians, and the military command) approve doubling the tax on alcoholic beverages to combat alcoholism. A December 1986 Gallup poll found that 66 percent of respondents supported doubling alcohol excise taxes to fight alcohol abuse. A June 1987 Washington Post/ ABC News poll found that 75 percent of the respondents supported higher alcohol taxes. The New York Times, Los Angeles Times and Washington Post have all editorialized in support of higher alcohol excise taxes.

Distinguished economists, including Martin Feldstein, Joseph Pechman, Henry J. Aaron, and Lester Thurow, have recognized the benefits of raising alcohol excise taxes. In 1986, prominent economists, including three Nobel laureates, petitioned Congress to raise taxes on alcoholic beverages substantially, both to reduce the budget deficit and to improve the public health (CSPI). These economists specifically called for equalizing the tax rates based on alcohol content.

We support equitable tax treatment of all types of alcoholic beverages. Currently, the alcohol in beer is taxed at about one-fourth the rate of liquor, and wine about one-seventeenth the rate. From both a public health and revenue perspective, these differentials make no sense.

Studies at Duke University have correlated increased taxes at the state level with reduced levels of alcohol-related problems. Cook (1981) examined the effects of 38 liquor increases in 30 states between 1961 and 1975. He found that increases correlated not only with decreased consumption, but also with decreases in cirrhosis of the liver and highway fatalities. Notably, these findings indicate that alcohol consumption among heavy drinkers, those who suffer the most and cause the greatest harm related to alcohol, [illegible] affected by tax-induced price increases.

Saffer and Grossman (1987) have looked at the impact of variations in State alcohol excise taxes on beer and fatal motor vehicle crashes among youth. They found that States with higher taxes have lower fatality rates for three separate groups -- 15 to 17, 18-20 and 21-24. They estimated that if the Federal excise tax on beer had been indexed to inflation since 1951, there would have been a 15 percent reduction in the number of 18-20 year olds involved in fatal crashes. If the alcohol in beer had been taxed at the same rate as the alcohol in distilled spirits, there would have been a 21 percent reduction in fatal crashes among this age group.

There is no question that raising federal alcohol excise taxes is the most potent way we can save young lives -- lives that are lost in fatal alcohol related traffic crashes each day. The only reason this sound and logical public health policy has not been enacted is that the alcoholic beverage industry has wielded its political and economic power to prevent tax increases. At the expense of human lives, this industry has fought to maintain sales.

The Surgeon General highlighted three recommendations which address alcohol advertising. He urged Congress to extend the warning label law to include warning labels on all alcoholic-beverage advertisements by November 1989. He encouraged Congress to authorize and fund Federal Agencies to purchase advertising time for pro-health and pro-safety messages if substantially increased public service time and space do not become available. And finally, he urged Congress to pass legislation which would eliminate tax deductions for alcohol advertising which focuses on lifestyle rather than on the price and product.

One of the most important concerns repeatedly expressed about alcohol advertising is the powerful presence it has in our lives. Very few Americans go through a day without seeing or hearing an invitation to drink alcohol. We will probably never know the precise relationship between alcohol advertising and drinking. This should not stand in the way of providing concrete information to consumers about the fact that alcohol is a mind altering drug and that there are risks associated with drinking. It should also not stand in the way of stopping alcohol advertising practices aimed at youth -- a group for which drinking is illegal.

The alcoholic beverage industry spends approximately $2 billion each year on advertising and promotions in the United States. In 1987, beer marketers spent over $800 million, liquor marketers over $250 million, wine marketers over $100 million and cooler marketers over $100 million, advertising their products. Over $800 million was spent on television advertising alone. In 1986, Anheuser-Busch's annual budget for just one brand of beer, Budweiser, was $110 million (CSPI, 1989). In 1988, breweries in the United States paid for about 10 percent of all sponsorships of athletic, music, cultural and other special events. They fund activities such as sports events, rock concerts and college 'spring break' promotions. All of these activities generally attract large audiences of under age drinkers. America's largest brewer, Anheuser-Busch, through its advertising and promotions, helps finance all 24 U.S. Major League baseball teams, 20 of the 28 National Football League teams, more than 300 college teams, and about 1,000 other sporting events.

Alcohol advertising, especially in the broadcast media is the single greatest source of alcohol education for American consumers. Over one billion dollars a year is spent on alcohol ads on radio and television which glamorize alcohol use. These beer and wine ads and particularly those of wine coolers which, incidentally, have more alcohol than beer, depict alcohol products as the ultimate reward for a football game well played or a job well done; they associate the consumption of beer and wine with financial success and romance; and in some cases, they explicitly encourage heavy drinking. Creativity, big money and more than a little finesse coupled with the portrayal of retired athletes, celebrities, rock stars and just plain beautiful people all serve to formulate a message that alcohol is a necessary ingredient to enjoy a sports event, ski trip or a night on the town. Indeed, we are lured into believing that a day without alcohol is hardly worth the effort.

When ads are not positing alcohol as a magic potion to enhance human potential, they are busy blurring the distinctions between alcohol and other beverages by describing beer as a thirst quencher or emphasizing the fruity taste of wine coolers. The mood-changing and addictive properties of ethyl alcohol are either totally absent or only inferred by seductive innuendo. Alcohol ads are completely silent on the subject of the negative consequences of alcohol use.

Despite serious public attention and concern over the death and injury associated with drinking and driving in America over the last decade, it is not unusual for ads to associate drinking with driving and with other high risk activities. Beer and wine coolers are ubiquitous components of a good time at the beach, on the white water rafting trip or on the ski slope. In 1987, the AAA Foundation for Traffic Safety released a study by media communication specialists which examines the cultural myths and messages in a sample of beer commercials, analyzes the relationships among beer, masculinity, and driving represented in those ads, and discusses the implications of those relationships for children' attitudes toward beer drinking and driving.

The report concludes that beer commercials link drinking and driving through references to beer with images of moving cars and by linking references to the pleasures of beer to the pleasures of driving. Moreover, the report found that beer ads glorify risk-taking and challenge-seeking behavior and disregard for the destructive or potentially dangerous consequences of one's own actions. The study recommends immediate action to prohibit this genre of lifestyle ads for beer, either through a complete ad ban, limiting ad content to product identification, or at the very least, a prohibition on the use of all motor vehicles in ads and all references to driving and speed.

This AAA report represents a serious indictment of the beer industry and the dangerous socialization of the nation's young through advertising. This educational process- advertising- undoubtedly contributes to the annual 10,000 deaths of American young people 16-24 years old through alcohol-related accidents of all kinds including drownings, suicides, violent injuries, homicides and injuries from fire. These findings also lend support to an earlier study funded by the United States government which found that adolescents and young adults more heavily exposed to alcohol ads on TV and in magazines are more likely to perceive drinking as attractive, acceptable and rewarding than are those who have been less exposed.

The American public supports changes in alcohol advertising practices. In a 1986 Gallup Poll, 75 percent of those surveyed indicated that they would favor a federal law that would require TV and radio stations carrying beer and wine commercials to provide equal time for health and safety warning messages about drinking. On June 7, 1989, the television show, Entertainment Tonight, invited viewers to comment on whether they felt celebrities should pitch alcoholic beverages. It cost viewers 50 cents to call a 1-900 number with their answers. The responses were: 22.9 percent (8,411) said it was o.k., and 77.1 percent (28,357) said it was not o.k., celebrities should not appear in beer and wine commercials on TV.

If we are really serious about solving the problem of drinking and driving among our nation's youth, we must go further with the radio and television messages about alcohol that are carried to young people. Vague PSA's which urge individuals to "know when to say when" are ridiculous for adolescents who consider a six pack of beer as the social norm for a week-end evening. And even when advertising is not "targeted at youth", young people see commercials every day that glamorize and encourage the use of alcohol.

Clear abstinence messages must go out to youth. Nothing short of no drinking and driving should be the language we all adopt. If these industries are really serious about their commitment to address the problem of drinking and driving, then surely they will have no objection to an abstinence message when it comes to driving. The simplest and clearest way to stop drunk driving is to stop the widespread practice of driving a car after drinking alcohol. This is the case whether you are a social drinker, a heavy drinker or an alcoholic.

As Congress proceeds to consider and implement the recommendations of the Surgeon General's Workshop on Drunk Driving, consideration must also be given to the way in which alcohol is regulated at the Federal level. The Bureau of Alcohol, Tobacco and Firearms (BATF) and the Federal Trade Commission (FTC) have the chief regulatory authority over alcoholic beverages. The BATF is in charge of matters pertaining to alcohol taxation and labeling. The FTC regulates alcohol advertising on the public airwaves.

The BATF has taken little action to protect or represent the interests of consumers when it comes to alcoholic beverages. In fact, their record is very disconcerting. There are a number of examples which serve to illustrate their laissez faire position.

On two occasions, BATF has announced their intention to promulgate a rule restricting the use of athletes in alcohol ads. BATF never followed through with this announcement, and the public was never informed about why this action was stopped. BATF has always had the power to issue rules on ingredient and warning labels for alcoholic beverages. Although they have this authority, it was not until Congress mandated their action in 1988 that a temporary rule for warning labels was issued. Upon examination, it is clear that even after being forced to act by Congress, BATF is loathe to really act when it comes to alcoholic beverages. Their temporary rule on warning labels did not even require that manufacturers place it on the front of the container.

The examples of BATF's denial when it comes to alcohol are endless. When asked to testify before this Committee at the first hearings on the recommendations of the Surgeon General's Drunk Driving Workshop, BATF declined. As we understand it, they stated they did not have jurisdiction over the issues covered by the recommendations. It would appear that BATF only identifies itself as a regulator of alcoholic beverages when either Congress or another federal agency calls for additional regulation over alcoholic beverages.

The lines between the BATF and the interests of the alcoholic beverage industry are blurry. In a June 1989 letter to the editor in the wine industry publication Wines and Vines, former BATF director and retired president of the National Association of Beverage Importers Rex Davis urges readers to join in the fight against the so-called "neoprohibitionists." He begins with a very convoluted discussion about how the "neoprohibitionists" are trying to undermine the disease concept of alcoholism (that's news to the National Council on Alcoholism) and then goes on to say, "Widespread public antagonism towards alcoholic beverages would play into the anti-alcohol movement and be fatal to the survival of wine, beer and spirits."

Even if BATF wanted to be "responsible" in monitoring alcoholic beverages" they do not have the staff to carry out these activities. BATF officials told representatives from NCA that they have one part-time staff member to monitor beer advertising for no more than several hours a week..

The track record of the Federal Trade Commission is no better. They just do not care about the content of alcohol ads. The wine and beer industries have their own voluntary advertising codes which are consistently violated or enforced. The content of ads are determined by advertisers and alcoholic beverage companies with little federal scrutiny..

Any other product which contributed to the death of close to 100,000 people per year (NIAAA, 1987) would be monitored and regulated with vigor. The regulation of alcohol by the BATF and the FTC perpetuates its treatment as a special product and stands in the way of actions to protect the public health. The NCA recommends that the regulation of alcohol, especially labeling and advertising practices, be moved to the FDA where consideration of the public's health is given priority. At a minimum, agencies like the FTC with current regulatory authority, should be explicitly required by Congress to monitor alcohol advertising in much the same way Congress required FTC to act on tobacco advertising practices. This Committee, with its oversight responsibility over federal agencies has a critical opportunity to modify that way in which alcoholic beverages are regulated on the federal level.+

Surgeon General Koop held a press conference on May 31, 1989 to release his recommendations. At this press conference he urged us all to " pray that those who are caught between their conscience and their pocketbooks on this issue make the right choices." Indications are that the alcoholic beverage industry and the advertisers will not make the right choice in the near future, judging by their resistance to these recommendations. However, there is evidence that the public supports changes in the way alcohol is promoted in our society. This public support is slowly moving our society to change.

The main obstacles to implementing effective measures to end drinking and driving crashes in this country, such as raising alcohol excise taxes, curbing alcohol advertising practices and providing treatment for alcoholics, are politics and greed. The alcoholic beverage industry will spend many more resources on preventing additional regulation of their product in the coming years than they will on preventing drinking and driving crashes. They can be relied upon to come up with new angles to argue that drinking and driving crashes are not really related to their product.

We must all look at the simple facts. The fact is that when you drink and get behind the wheel of a car you present a risk to yourself and others. This is a risk that can be entirely avoided by not drinking and driving. At a minimum, the industry must adopt a no use message when it comes to drinking and driving. This message must be stated clearly and unequivocally. Do not drink and drive.

Another fact is that many individuals who drink and drive are alcoholics in need of treatment. Evidence indicates that severe penalties alone for drinking and driving offenses do not work in preventing alcohol related crashes. A 1988 study by the AAA Foundation for Traffic Safety found that states with more severe sanctions for drunk driving did not experience a greater decline in the incidence of drunk driving. There is no doubt that a majority of second time drunk driving offenders are alcoholics. Without treatment, it is unlikely that they will change their practice of drinking and driving.

We thank Surgeon General Koop for his leadership on this issue. We also thank this Committee for reviewing these recommendations and urge you to take action to help end these tragic crashes. The Surgeon General has identified some 200 recommendations in areas ranging from law enforcement to education, prevention and treatment. NCA applauds this multi-faceted menu of strategies to the complex problem of alcohol impaired driving. We have chosen today to highlight those recommendations which appear to us to be ripe for national attention and Congressional action. Moreover, we believe that the impact of alcoholic beverage pricing and promotion have too often been overlooked in the public debate on this issue. Clearly, the implications of these recommendations have not gone unnoticed by the alcoholic beverage industry and the advertising industry whose comments have dominated these hearings. We have in the Surgeon General's Drunk Driving Workshop recommendations a plan of action. We urge you to act now and to act on behalf of what is in the best interests of our public health.

Statement of
Michael M. Birkley
for the
National Licensed Beverage Association

before the
Committee on Governmental Affairs
United States Senate

Hearing on
"Averting Alcohol Abuse:
New Directions In Prevention Policy"

June 21, 1989

Good morning, Mr. Chairman and members of the committee. My name is Michael Birkley.

I represent the National Licensed Beverage Association, a 25,000-member organization of retail-alcohol-beverage businesses throughout the nation. Our members are commercial hosts and hostesses whose licenses and livelihoods depend upon taking good care of their customers by providing safe, supervised settings for family and adult social, dining and recreational activities. Our members work to protect their guests and their communities against the effects of too much drinking by the irresponsible few.

I have spent most of my adult life, 21 years, working in the field of alcohol and other drug abuse prevention, treatment and rehabilitation. Having been first on the scene and last to leave the gravesides of many, too many, victims of alcohol abuse, I have worked to develop and implement a variety of abuse-prevention and drunk-driving-reduction programs and policies, including: Wisconsin's innovative Designated Driver Program (1983); statewide Bartender Training Workshops (1978); the Comprehensive Adolescent Alcohol Education and Enforcement Act, Chapter 331, Laws of 1979 (Wisconsin); and Chapter 193, Laws of 1977 (Wisconsin), which was one of the earliest comprehensive and most effective drunk driving laws in the Nation.

Since 1978, the National Licensed Beverage Association and its state affiliates have also been actively involved in the development and implementation of a variety of innovative abuse prevention and drunk driving reduction programs including: Server Training, Responsible Beverage Management, Consumer Education, Designated Driver, Alternative Transportation, Underage Drinking Alternatives and Law Enforcement Assistance programs.

Members of the nation's licensed-beverage industry more frequently encounter, and are more frequently in a position to prevent, abuse and drunk driving than any other organized segment of society. Other people may research, legislate or talk about the need to prevent alcohol abuse. Responsible licensed beverage operators work at it every day. Recent research indicates that their efforts are succeeding[1].

Despite the alcohol-beverage industry's knowledge, insights and experience in preventing abuse and reducing the risk of alcohol-related highway crashes, industry spokespersons and outside experts involved in developing and conducting industry-sponsored countermeasure activities have been systematically excluded from most recent alcohol policy discussions, including the Drunk Driving Workshop from which the Surgeon General has drawn the recommendations which are the focus of this proceeding.

Commercial hosts and hostesses are the frontline in the nation's battle against alcohol abuse and drunk driving. We believe they have much to contribute and more to offer in these discussions than many of the participants in the Surgeon General's Workshop. For that reason, the National Licensed Beverage Association and I welcome this opportunity to contribute our knowledge and perspectives to your discussion of the Surgeon General's recommendations for new directions in prevention policy.

Earlier this year, the National Licensed Beverage Association provided the Surgeon General with a detailed response to the research assumptions, findings and recommendations contained in the Draft Report of the December Drunk Driving Workshop. This presentation highlights the comments and observations contained in our more detailed response to the Surgeon General, a copy of which is attached to my prepared statement and which I request, Mr. Chairman, to be included in the record of today's hearing.

Background

Alcoholism, alcohol abuse and highway safety are critical nationwide concerns. Reducing the incidence and effects of alcohol abuse has long been a federal priority.

In the past two decades, government, industry, and public interest groups have initiated and conducted a variety of programs to increase public awareness, concern and intervention to prevent and reduce the costly and frequently tragic effects of alcohol abuse, drunk driving and alcohol related highway crashes.

As a consequence of these initiatives and interventions, alcohol abuse[2] and alcohol-related highway crash rates[3] have dramatically decreased. Our nation's highway users are significantly safer from risk of involvement in alcohol-related highway crashes today than they were when this decade began more than eight years ago.

Despite the continuing success of these ongoing interventions in maintaining reduced-risk levels, the rate of reduction in alcohol-related highway crashes appears to have stabilized in recent years[4]; and alcohol abuse and alcohol-related highway crashes continue to be the nation's most tragic and most costly health and social problems. Concerned citizens, seeking new mechanisms for further reducing the risks of these preventable behaviors, are asking government to respond.

We commend the Surgeon General for responding to their concerns by taking the initiative to develop additional strategies for averting alcohol abuse and preventing alcohol-related highway crashes.

Policy Directions

In reviewing the Surgeon General's recommendations, however, we find no new policy directions; and we find that relatively few of the recommendations have not already been shown as failures in either reducing alcohol abuse or by creating even greater economic, social, health and safety risks, in past or current applications within the United States or other industrialized nations of the world.

Historically governmental policies directed at reducing the potential for alcohol abuse have been aimed in only two directions:

1. Policies directed at controlling consumption and restricting availability to all, including those who do not abuse alcohol.
2. Policies directed at preventing, identifying and reducing the risks presented by those who do abuse alcohol.

All of the Surgeon General's recommendations fall into one of these two historic policy directions. Examples of both may be found in current state and federal alcohol policies. Neither direction is new.

Targeted prevention mechanisms, policies directed at reducing the risks presented by those who abuse alcohol, tend to be more effective than those which restrict the freedoms of those who present little or no risk of abuse.

Considerations

In shaping future federal prevention strategies, we urge you consider the risks, as well as the preventive potential, of each of the Surgeon General's recommendations, bearing in mind four important considerations:

1. Formal social policies (laws) tend to be effective only to the extent that they reflect informal social attitudes and prevailing community standards;

2. Alcohol-beverage consumption is a normative and socially acceptable aspect of adult American social behavior;

3. The overwhelming majority of those who drink do so responsibly, and within the limits established by prevailing community standards, most of the time; and

4. Restricting the freedoms of those who do not abuse the drinking or driving privilege may not be an appropriate or productive response to the already illegal and dangerous behaviors of the irresponsible few, who do.

Discussion of Key Recommendations

Although the Surgeon General's Workshop on Drunk Driving made a great number of specific policy recommendations, he issued a 2-page document entitled "Synopsis of Key Recommendations Made to the Surgeon General By the Expert Panels" which classified some of these policy recommendations in ten groups. I note that these "synopsis recommendations" distributed to the public do not correspond very closely at all with the ten "key summary recommendations" which the Surgeon General endorsed and described when he appeared before this Committee on June 15, 1989, which makes it unclear as to the level of agreement the Surgeon General has with the "synopsis recommendations" that resulted from the Workshop.

Nevertheless, I will address six of the ten "synopsis recommendations" which are most directly on point to the day-to-day activities of commercial hosts and hostesses.

Rec. I: Lower Blood Alcohol Concentration (BAC) Tolerance

The "synopsis recommendation" states:

> "Reduce blood alcohol concentration (BAC) from its present level of 0.10 percent to 0.08 percent immediately and to a level of 0.04 percent by the Year 2000. The permissible BAC level for drivers under 21 years of age should be established at 0.00 percent nationally."

The Surgeon General, in his statement before this Committee on June 15th, divides this "synopsis recommendation" into his first two "key summary recommendations", the first relating to the adult BAC standard, and the second to the youth BAC standard.

Lower Adult BAC Standard

The current legal limit for driving in most states, 0.10 percent, is an arbitrary standard designed to enhance the potential for detection, arrest, prosecution, conviction, punishment and rehabilitation of high-risk drivers whose driving and physical behaviors at the time of arrest would not likely sustain their conviction on a charge of driving under the influence.

Drinking drivers who exhibit dangerous or deviant driving behaviors at blood alcohol levels in the 0.02 percent range and above may also be arrested, prosecuted, and convicted for driving under the influence under existing laws in most jurisdictions.

Recent research indicates that the current 0.10 percent BAC and behavioral standards have effectively reduced the incidence of abusive driving and highway crash involvement, particularly among lower-risk (0.02% - 0.10% BAC) drinking drivers. Higher-risk (0.10%+ BAC) drivers, however, continue to be disproportionately represented in all indices of highway crash involvement.

Scandinavian and other Northern European nations which have adopted, and vigorously enforce, substantially lower BAC limits have significantly higher alcohol-related highway crash rates than our own[5].

While current social attitudes and prevailing community standards support enforcement of the existing legal BAC limit, it is unlikely that a lower arbitrary standard, in the range suggested by the Surgeon General, would be any more enforceable or effective in reducing highway crash involvement than those of the Northern European and Scandinavian nations.

Caution should be exercised not to lower the standard, but rather to maintain and strengthen enforcement to enhance its potential for reducing the level of highway crash involvement among the higher-risk drunk driving population.

We urge you to reject this recommendation.

Zero-BAC Standard for Youth

Current state laws permit persons under the age of 21 to legally consume alcohol beverages in a number of circumstances, such as when accompanied by their parent, guardian or spouse of legal age, at church, and in other settings under parental or other adult supervision.

Prohibiting operation of a motor vehicle within the normative safe limits by underage persons who have consumed any alcohol at all, including those whose consumption occured under legal circumstances, would result in arrest, conviction, and punishment of those whose consumption and operation of a motor vehicle are both well within otherwise safe and legal limits.

Current laws already prohibit and provide for differential treatment of underage persons who drink and drive illegally. Lowering the legal BAC limit for drinking and driving will not make either drinking or unsafe, intoxicated driving any more illegal than they already are for those under the legal drinking age.

We also urge that you reject this recommendation.

Rec. II: Increasing the Price of Alcoholic Beverages Through Taxation.

The "synopsis recommendation" states:

> "Increase taxes on alcoholic beverages. Equalize on the basis of alcohol content and raise to adjust for past inflation. Index to future inflation so the taxes do not decline in real dollars."

The Surgeon General, in his statement before this Committee on June 15th, endorses part of this "synopsis recommendation", that of increasing and equalizing the excise tax on alcohol, in his third "key summary recommendation", but he omits indexing. His fourth "key summary recommendation", however, adds the concept of earmarking such excise tax revenues to impaired-driving prevention programs.

The Drunk Driving Workshop's assertion that "an increase in the excise tax could have [a] long-term effect on alcohol impaired driving" is clearly at odds with reality[6].

The results of our own historic experience, and the Soviet Union's current control-of-availability experiment, clearly demonstrate that: Where government reduces availability below normative demand levels, consumers turn to alternative, untaxed and unregulated sources of supply[7].

The economic, social, health and safety risks associated with widespread marketing and consumption of illegal and unregulated alcohol beverage products are significantly greater than those associated with abuse of regulated alcohol beverages[8].

Because its implementation is more likely to increase, rather than decrease, the incidence and impact of alcohol-related problems in society, we urge that you also reject this recommendation.

Rec. III: Funding Issues

The "synopsis recommendation" states:

> "Have each State provide a self-sufficient funding system for comprehensive alcohol-impaired driving programs, which should include assistance to victims of impaired-driving crashes. Finance the funding system through fines, surcharges, assessments, fees from alcohol-related violations and other non-federal sources, e.g. an increase in State excise taxes on alcoholic beverages."

The Surgeon General, in his statement before this Committee on June 15th, did not mention this "synopsis recommendation", although his fourth "key summary recommendation", is to earmark federal, not state, alcohol excise tax revenues to impaired-driving prevention programs; and although his ninth "key summary recommendation" encourages States to take action in another area.

Alcohol beverage consumers already bear a disproportionate share of the cost of local, state and federal government operations.

Just as responsible users and consumers of other legal products are not required to pay for the damage and injuries caused by those who misuse such products, responsible beverage consumers should not be required to pay for the damage and injuries caused by the illegal and irresponsible acts of those who abuse and misuse alcohol beverages.

Responsible consumers do not cause damage or injury to others, abusers do. The effects of abuse affect everybody's pocketbook, health and safety. Everybody should share the cost of assisting the uninsured victims of abuse.

We urge you to support the development of self-sufficient funding systems for comprehensive alcohol-impaired driving programs which do not include disproportionate taxation of responsible consumers of alcohol beverages.

Rec. IV: Reducing the Availability of Alcoholic Beverages

The "synopsis recommendation" states:

> "Encourage States and local governments to evaluate and eliminate policies that increase the availability of alcoholic beverages, especially at outlets for on-premise consumption, and to adopt policies that reduce

their availability."

The Surgeon General, in his statement before this Committee on June 15th, did not mention this "synopsis recommendation", either.

Availability is primarily a function of consumer demand and customer convenience. Retail alcohol beverage marketing is a high-risk, low-margin, and capital-intensive industry. Wise investors do so only where there is sufficient demand and profit potential. Otherwise they will fail.

Existing research clearly reflects that availability (outlets per capita) tends to rise and fall with consumer demand (apparent per capita consumption)[9].

The most effective determinant of risk in highway crashes is miles driven. Where available outlets are more limited and more remote from patrons' homes, after-drinking mileage and attendant risk of alcohol-related highway crashes is greater than where outlets are more numerous and less distant from consumers' homes.

Government policies should be adjusted to maintain a reasonable balance between availability and consumer demand.

Recent research indicates that drivers who drink in licensed on-premise establishments are 37% less likely to be involved in drunk or alcohol-impaired driving than those who drink in unli-

censed, private settings[10]. Government policies should particularly assure the availability of a sufficient number and variety of these kinds of establishments to serve consumer and community needs.

Rec. V: Administrative Per Se License Revocation Sanctions

The "synopsis recommendation" states:

> "Pass legislation in each state for administratively-imposed driver license sanction that is separate from other criminal sanctions imposed by the courts."

The Surgeon General, in his statement before this Committee on June 15th, did not mention this "synopsis recommendation", as such, although his ninth "key summary recommendation" states one type of administratively-imposed sanction -- that of confiscating drivers' licenses "on the spot for those found to be above the legal BAC."

Drivers arrested for first offense of operating a motor vehicle while intoxicated or above the per se limit for driving pose little risk of a repeat offense or crash involvement during the pendency of final adjudication of that offense.

Even in high-conviction rate jurisdictions, more than five percent of these offenses are dismissed without conviction or determination of guilt. There is no compelling public interest to be served in denying either the driving privilege or due process to the innocent.

We strongly urge you to reject this recommendation.

Rec. X: Enforcement of Drinking and Driving Laws

The "synopsis recommendation" states:

> "Increase enforcement of drinking and driving laws by expanding the use of sobriety checkpoints...."

In our view, sobriety checkpoints are gross and unwarranted intrusions on the personal freedoms of those who are not in violation or present no probable cause for their arrest.

Because of the low likelihood of injury to persons or property presented by an impaired or drinking driver whose operation of a motor vehicle does not present probable cause for his or her arrest, we maintain that there is insufficient public health or safety interest to merit abridging the freedoms of those drivers who have not been drinking and pose no threat at all to the public safety.

For that reason, we urge you to reject this recommendation.

Conclusion

In addition to the above recommendations, the Report of the Surgeon General's Workshop contains a variety of suggestions for restricting the freedoms of responsible consumers; punishing the families of abusers by denying them the use of automobiles driven by drunk drivers; and initiating a nationwide night-time driving curfew for adolescent drivers.

Well-intended as they may be, none of those recommendations are likely to have any favorable impact on the alcohol abuse or alcohol-related highway crashes.

It has been our experience that most people who drink, including those who abuse or are addicted to alcohol, and most people who drive after drinking, prefer to do their drinking in the company of others. In most settings in which alcohol is served, there are hosts or hostesses who dispense and serve the beverages, and other guests or patrons who know and care about one another. Given these considerations, the mechanisms for preventing abuse and drunk driving are simple and few:

1. To learn and live within your own safe consumption limits.

2. To help your friends, your guests, and others to do the same.

3. To provide or arrange for safe transportation and help to those who need them.

4. To insist on and assist in enforcing the existing laws, particularly those prohibiting service to minors and

intoxicated persons, as well as those relating to driving under the influence.

Since 1978, the members of the National Licensed Beverage Association have worked to apply those principals in all of our member establishments. Research indicates that they are working.

If every commercial host and hostess, every private party giver, guest and patron did the same, there would be less abuse and fewer drunk drivers on our the nation's highways.

Before moving in any new policy directions, we strongly suggest that federal attention be focused on reenforcing, expanding and replicating these existing successful prevention strategies throughout the nation.

Thank you, Mr. Chairman.

NOTES AND REFERENCES

(1) "Does Server Intervention Training Make A Difference ?" Alcohol Health and Research World, Vol. 11, No. 4, Summer, 1987; "Beyond Server Training", ibid. Vol. 10, No.4, Summer, 1986; and The National Licensed Beverage Association Response to The Surgeon General's Workshop on Drunk Driving, 1989, p.31, attached.

(2) Liver Cirrhosis Mortality in the United States, 1971-85, Surveillance Report #8, U.S. Department of Health and Human Services, Washington, D.C., June 1988.

(3) Fatal Accident Reporting System, (FARS), National Highway Traffic Safety Administration annual data and analyses.

(4) Opening Remarks of George Reagle, Associate Administrator for Traffic Safety Programs, NHTSA, in Proceedings of the Surgeon General's Workshop on Drunk Driving, pp.12-15, U.S. Department of Health and Human Services, Washington, D.C., 1989.

(5) Scheafer, James, Final Report of the Scandinavian Drinking and Driving Study Tour, University of Minnesota, Fall 1985.

(6) Between 1967 and 1987, the effective rate of alcohol beverage taxes decreased, and the real price of all alcohol beverages decreased by 28 percent (Cook), per capita consumption of alcohol beverages decreased by 2.3 percent (DHHS #10), and age-adjusted death rates of liver cirrhosis also decreased by 28 percent (DHHS #8), indicating the existence of a positive, rather than a negative correlation in taxation, price, consumption and abuse.

Data Sources:

Cook, Phillip J, testimony on Causes and Consequences of Alcohol Abuse, U.S. Senate Committee on Governmental Affairs, June 29, 1988, S.Hrg. 100-834, Pt.2, page 274.

Surveillance Report #10 Apparent Per Capita Alcohol Consumption - National, State and Regional Trends, 1977-1986, U.S. Department of Health and Human Services, October, 1988.

Surveillance Report #8" Liver Cirrhosis Mortality in the United States, 1971-1985, U.S. Department of Health and Human Services, June, 1988.

(7) NLBA, 1989, pp.7, 8, 31, attached.

(8) Birkley, M. M., Alcoholic Beverage Abuse and Control, Wisconsin Department of Health and Social Services, September, 1979.

(9) Medicine in the Public Interest, The Effects of Alcoholic-Beverage-Control Laws, Washington, D.C., 1979.

(10) NLBA, 1989, p.12, attached.

THE
NATIONAL LICENSED
BEVERAGE ASSOCIATION
RESPONSE
TO THE
SURGEON GENERAL's WORKSHOP
ON
DRUNK DRIVING

The
National Licensed
Beverage Association
Response
to the
Surgeon General's Workshop
on
Drunk Driving *

Background

In the past decade, government and industry initiated and funded a variety of programs to increase public awareness, concern, and intervention to prevent and reduce the incidence and effects of alcohol abuse, drunk driving, and alcohol related highway crashes. (1)

In this decade, government and industry expanded those efforts, initiating new socio-legal interventions, enforcement mechanisms and prevention programs specifically directed at reducing the risk of alcohol related highway crashes among high-risk populations. (2)

As a consequence of these initiatives and interventions, alcohol abuse and alcohol related highway crash rates have dramatically decreased; and, the nation's highway users are significantly safer from risk of involvement in alcohol related highway crashes today than they were when this decade began eight years ago. (3)

Encouraged by the risk reductions effected thus far by current intervention methods, those responsible for their success have redoubled their efforts to identify and implement the most successful of those interventions throughout the nation. (4)

Other public health, safety and abuse prevention advocates have called upon the federal government to enact additional, more pervasive, more intrusive and more costly intervention policies. (5)

Responding to growing advocacy for further government action to reduce the risks of alcohol abuse and drunk driving, the United States Surgeon General convened an inter-organizational workshop to focus on the issue and develop policy recommendations directed at achieving that objective. (6)

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* 2nd Edition

Process, Participation

Intended to serve as "An umbrella for diverse groups to meet and discuss [drunk driving] issues," participation in the December 14-16, 1988 Surgeon General's Workshop on Drunk Driving was limited, by invitation, to a diverse group of organizations and individuals known to be vigorous advocates for increased government intervention, control and restriction of personal and commercial freedoms.

Public health, highway safety, abuse prevention, and beverage industry experts whose research and experience lead them to question or oppose the participants' perspectives on these issues, were not invited. They were notably absent.

Workshop sessions were not open to their diverse and divergent viewpoints on the issues under discussion.

Predictably, the Surgeon General's December Workshop recommended enactment and implementation of the same - more pervasive, more intrusive, and more restrictive - intervention policies for which the participants were known in advance to be vigorous advocates. (7)

Observations

Reviewing those recommendations, the National Licensed Beverage Association, a 25,000 member nationwide trade association of licensed on-premise alcohol beverage retailers, found that:

> A number of the workshop's recommendations relate directly to the conduct of the nation's retail licensed beverage industry. Others would directly affect the health, safety and economic well-being of industry members, consumers and their families.
>
> Many of those recommendations are for re-enactment or nationwide implementation of policies proved to be either ineffectual or disastrous in current or previous applications. Others appear to be based on false or unsupported assumptions, inadequate research, unreliable data and methodological error.

The Association's analysis and comments on specific recommendations of the December Workshop follow, beginning on page 4.

Comments

Because the Surgeon General's recommendations are likely to affect the health, safety and economic well-being of the entire nation; and, because scholarly research, historic evidence and expert opinion appear to be divided on the risks and benefits of the December Workshop recommendations, we urge the Surgeon General:

> To withhold endorsement and suspend action on the proceedings of that initial workshop.
>
> To re-open an open discussion of the issues to a more representative cross-section of scholarly investigators and experts in public health, highway safety, abuse prevention, beverage marketing and alcohol beverage control.
>
> To conduct those discussions openly; and to invite participation and response from the public.

Alcoholism, alcohol abuse and highway safety are critical nationwide concerns. Reducing the incidence and effects of alcohol abuse has long been a national priority. We commend the Surgeon General for taking the initiative to develop comprehensive federal strategies for addressing what has come to be recognized as the nation's leading health and social problem.

In shaping future federal initiatives in this area, we urge the Surgeon General to consider the risks as well as the benefits of each, bearing in mind that most adult Americans consider themselves to be drinkers; that the overwhelming majority of those who drink alcohol beverages do so responsibly most of the time; and, that restricting the freedoms of those who do not abuse alcohol may not be a productive response to the already illegal and dangerous behaviors of those who do.

The members of our association have long recognized the nature, extent and impact of alcohol abuse in society. We also recognize that we more frequently encounter, and are more frequently in a position to prevent abuse and drunk driving than any other organized segment of society. While other people talk about the need to prevent abuse, members of our association work at it every day. Recent research indicates that our efforts are succeeding. (8)

We look forward to the opportunity to share the results and explore the prospects for improvement in our industry's abuse prevention programs with others at the next Surgeon General's workshop on this issue.

Report of the Panel on Pricing and Availability

"II. Price

Research evidence shows that an increase in the excise tax could have the largest long-term effect of all policy and program options available to reduce alcohol-impaired driving."

NLBA Response:

The panel's statement is speculative at best. At worst, it is at odds with reality.

The panel's statement assumes that raising taxes will: 1) Cause a general increase in the retail cost of alcohol beverages, which will 2) Cause a reduction in apparent per capita consumption of alcohol, which will 3) Cause a reduction in the general incidence of alcohol abuse, which will 4) Cause a reduction in the incidence of alcohol-impaired driving.

Although some research evidence indicates that alcohol beverages are generally price inelastic, i.e. apparent per capita sales of a given product tend to rise and fall inversely with its cost relative to real disposable income (9); and,

Other studies indicate that apparent per capita consumption of absolute alcohol tends to rise and fall inversely with the cost of absolute alcohol relative to real disposable income (10); and

Researchers generally agree that there is a curvilinear relationship between per capita abuse as measured by cirrhosis death rates and apparent per capita consumption of absolute alcohol in a given population; apparent per capita consumption tends to rise at a fraction of the rate of increase in the number of frequent heavy drinkers within the population as measured by cirrhosis death rates (11);

There is substantial disagreement within the scientific community as to which of the variables in these two-part relationships is the independent cause, and which is the dependent effect. (12) Some research evidence suggests that both variables in each of those observations may be dependent effects of a number of independent socio-economic variables. (13)

Thus, there is no reliable scientific basis for any of the assumptions underlying the panel's statement.

Researchers have established no correlation between the relative tax burden or the price of absolute alcohol relative to real disposable income and the rate or incidence of alcohol-impaired driving within or among jurisdictions over time.

Recent experience in a number of U.S. and foreign jurisdictions runs contrary to the panel's wishful-thinking assertion.

Retail alcohol beverage prices, apparent per capita consumption and abuse (cirrhosis death rates) are significantly higher in the state of New York and the District of Columbia than in West Virginia, Kansas or Iowa. (14)

The tax burden and retail price of absolute alcohol is significantly higher relative to real income in Sweden than it is in the United States. Sweden's alcohol related highway crash rates are higher than the United States average, and higher than those in a number of lower tax, lower retail price midwestern states. (15)

Contrary to the panel's "more tax/less alcohol impaired driving" assertion, and its "less tax/more impaired driving" corollary, nationwide alcohol-related highway crash rates continue to trend downward, despite continuously decreasing effective federal excise tax rates over the past five years. (16)

Recommendations of the Panel on Pricing and Availability

"A. Recommendations to the Federal Government

1. Equalization-Equalize Federal excise tax rates by ethanol (pure alcohol) content across all beverages, by raising rates for beer and wines to that of distilled spirits, and ,

2. Adjustment for Past Inflation-Adjust the resulting equalized excise tax rate to reflect the change in the Consumer Price Index (CPI-U) since 1970; and

3. Future Indexing-Annually adjust the resulting excise tax rate to reflect changes in the Consumer Price Index (CPI-U) for the previous year."

"B. Recommendations to State Governments

Follow the above recommendations to the Federal government involving equalization, adjustment for post (sic) inflation, and future indexing [detailed in B.1., 2., and 3.]

4. States with relatively low tax levels should increase them at least to levels equivalent to those of bordering states."

NLBA Response

Implementation of the panel's pricing recommendations would likely increase, rather than reduce the risk of abuse and alcohol-impaired driving, while raising a variety of new risks to the nation's economy, health and safety.

Recent research indicates that those who drink in regularly licensed on-premise retail alcohol beverage sales establishments are 37% less likely to drive impaired than those who drink in unregulated, and less supervised, off-premise settings. (17)

Because the price per ounce of absolute alcohol served in on-premise establishments is generally two to three times that of absolute alcohol served and consumed off-premise, wholesale cost increases tend to drive pocketbook-conscious consumers out of lower-risk on-premise etablishments to do their drinking in higher-risk off-premise settings.

Evidence of this potential hazard of tax-inflated alcohol beverage prices can be found in the Scandinavian countries where on-premise drinking has become the exception due to the exceptionally high cost of consumption in those settings, and alcohol-related highway crash rates continue to exceed our own. (18)

Alcohol-related highway crash rates are also higher than average in a number of higher than average alcohol beverage cost jurisdictions within the United States.

Caution should be exercised with regard to recommending initiation of non-market inflationary alcohol beverage pricing policies, pending further research into their potential for harm in this area.

Inflationary pricing policies are likely to result in less, rather than more federal, state and local tax revenue.

Moderately inflationary pricing policies which do not place normative consumption beyond the reach of average income consumers are unlikely to effect any reduction in per capita consumption or abuse. They do, however, tend to cause reductions in on-premise consumption, on-premise business failures, unemployment; and, local, state and federal revenue losses.

Despite generally increasing apparent per capita consumption in the face of rising alcohol beverage costs during the last decade, on-premise market share decreased during the same period. As wholesale beverage prices increased, off-premise consumption increased, and on-premise consumption decreased, relative to total alcohol beverage consumption nationwide. (19)

Although they currently sell less than one-third of the total volume consumed, the nation's licensed on-premise alcohol beverage retailers provide employment for 1.8 million, pay more than $22.8 billion in wages, create more than $95.5 billion in total business activity, and generate more than 75% of the retail beverage industry's $17.2 billion annual contribution to local, state and federal income, property and sales tax revenues. (20)

Pricing policies which decrease on-premise and increase off-premise consumption would have no effect on federal excise tax revenues passed-on in wholesale prices. They would, however, effectively reduce other federal, state, and local revenues to one-third of the amount generated by on-premise sales of the quantity shifted to off-premise sales establishments. A 10% shift in on-premise volume to off-premise consumption would likely produce a net alcohol-related income, sales and property tax revenue reduction of 7%.

Pricing policies which place normative consumption beyond the reach of average income comsumers foster development of black market responses to unmet consumer demand.

The results of our own historic experience and the Soviet Union's more recent control-of-availability experiment clearly demonstrate that: Where government reduces availability below normative demand levels, consumers turn to alternative sources of supply. (21)

Where the costs of regulated supply are effectively prohibitive and attainable market prices of unregulated, untaxed alternatives permit realization of reasonable profit-to-risk ratios, illegal sources of supply become readily available.

The relationship between illegal marketing activities and prohibitive tax policies are well demonstrated by: recent increases in the availability of bootleg cigarettes in states which have recently enacted prohibitive taxes on those products; the rise and institutionalization of scotch whiskey smuggling in response to Scotland's prohibitive distilled spirits tax; diversion of foodstuffs, cosmetics, perfumes and industrial solvents to black market alcohol production in response to the Soviet Union's recent price and supply restrictions on legal alcohol beverage products. (22)

Although the negative consequences of -widespread illegal alcohol beverage activities are well documented, there is no consistently reliable historic data base for quantitative analyses of their overall impact.

Relying upon attending physicians' and coroners' cause-of-death reports, some have attempted to determine the effects of national prohibition on the incidence of alcohol abuse as reflected in annual cirrhosis and other alcohol-related death rates. (23)

Because these causes of death are known to be consistently under-reported under circumstances in which alcohol beverage consumption is socially, morally and legally acceptable, (24) it is not reasonable to believe that they would be accurately or consistently reported during periods in which manufacture, possession, sale and consumption of alcohol beverages are classified as immoral and criminal behaviors.

It is more reasonable to believe that the significant reduction and gradual rise in cirrhosis and alcohol related deaths reported during the period of national prohibition were less a function of incidence than a function of contextual observation.

In the absence of consistently reliable data, it is scientifically impossible to quantify the risks and costs associated with illegal alcohol beverage consumption and abuse during periods in which consumer demand exceeded the limits of legal availability in any jurisdiction.

Historic and research evidence indicate that the social, health, and economic hazards associated with illegal manufacture, trade and consumption are significantly greater than those associated with consumption, sale and manufacture of legal alcohol beverages.

Caution should be exercised with regard to recommending any change in current tax policies, pending further research into their potential for:

Raising the risk of abuse and drunk driving, on-premise business failures, unemployment, and federal revenue reductions;

Generating consumer demand for less costly illegal alcohol beverages;

Increasing profitability and encouraging expansion of illegal beverage manufacture and distribution, theft, hijacking, bootlegging, and untaxed private manufacture for personal consumption;

Increasing the risk of injury, death and disability from consumption of impure, adulterated and poisonous products of illegal manufacture;

Increasing availablility of unregulated, illegal alcohol beverage products to persons under the current legal age for consumption; and,

Increasing the cost of alcohol related regulatory, law enforcement, criminal justice, health and social welfare activities.

"II. Preventing Increased Availability

The availability of alcoholic beverages in a community can significantly affect the extent of alcohol-impaired driving."

NLBA Response

Researchers have established no causal relationship between availability and the instance of alcohol abuse or alcohol-impaired driving. The panel's statement is conjectural at best, misleading at worst.

Market analysts generally agree that availability is, primarily, a function of consumer demand and customer convenience. Retail alcohol beverage marketing is a high-risk, low-margin, capital-intensive industry. Wise investors do so only where there is sufficient demand and profit potential. Others fail.

Existing research clearly reflects that regulated market reality; availability (outlets per capita) tends to rise and fall with consumer demand (per capita consumption.) (25)

Research also indicates that apparent per capita consumption increases as the number of frequent heavy drinkers (cirrhosis death rates) increase within the same population. (26)

In regulated free market economies, availability, consumption and abuse all appear to be functions of informal social attitudes; where informal social attitudes tolerate or encourage abusive consumption, apparent abuse, consumption and availability tend to be higher than where community standards are less tolerant of abuse.

As informal social attitudes become less tolerant of abuse, there is less abuse, and apparent per capita consumption rates decline.

Contrary to the assumptions underlying the panel's statement and recommendations for preventing increased availability, researchers have found circumstances in which increasing availabilty clearly reduced the risk of alcohol-related highway crashes among those affected.

Experts generally agree that the most effective determinant of risk in highway crashes is miles driven. Where available outlets are limited and more remote from patrons' homes, after-drinking mileage and attendant risk of alcohol-related highway crashes is greater than where outlets are more numerous and less distant from consumers' homes.

Researchers examining the effects of increasing Wisconsin outlets in which 18, 19, and 20 year-olds could legally purchase and consume alcohol beverages by 341%, from 5,416 to 18,478 in 1972, found no statistically significant increase in alcohol related highway crashes despite increased consumption and drinking occasions among those affected. (27)

A number of recent drinking age impact studies assert that reducing legal availability to those affected caused measurable reductions in alcohol-related highway crash rates among the nation's under-21 population. (28)

Some maintain that those studies are fatally flawed by their failure to disaggregate the effects of other concurrent interventions specifically directed at reducing alcohol-impaired driving among those affected by the legal drinking age change. (29)

Widespread reports and research evidence of unchanged or increasing abuse levels among those affected by the change; (30) and, the widely disparate post-change crash experiences among states which did, and states which did not concurrently apply additional drunk-driving-specific interventions directed at the same driver age group, (31) indicate that the post-change reductions in alcohol-related highway crashes, attributed by some to reduced legal availability, are more likely the result of driving-specific than drinking-specific interventions.

The panel's assumptions regarding the relationship between availability, abuse, and drunk driving appear to be further confounded by the fact that the State of Wisconsin, which has the highest number of licensed beverage outlets per capita in the nation, one for every 250 persons, ranks thirty-second in abuse (cirrhosis deaths per 100,000 population) and thirty-eighth in highway crash fatalities per 100 million vehicle miles traveled. (47)

Available research provides no reliable basis for thd panel's assertion that reducing legal availablity can reduce the extent of alcohol-impaired driving.

"...the panel recommends that[]governments not adopt policies which result in increased availability of alcoholic beverages... This applies particularly to bars, restaurants and other public facilities since research shows that the majority of alcohol-impaired drivers obtain alcohol at such places."

NLBA Response

The panel's statement regarding settings in which alcohol-impaired drivers obtain alcohol is an approximate half-truth; a distortion of the whole.

Survey research reveals that 68% of all drinking occasions outside the home occur in licensed on-premise establishments; bars, restaurants, bowling centers, and other public facilities. The remaining 32% occur in unlicensed settings; picnics, friends' homes, tailgate parties and other private social settings. (32)

Recent research results indicate that a majority, 57%, of the drivers convicted of drunk or alcohol-impaired driving were last served in a licensed on-premise establishment; 43% had last been served in other settings. (33)

Relative to risk of exposure, drivers last served in licensed establishments were 16% under-represented; and, those last served in private settings were 34% over-represented among those convicted.

Drivers who drink in licensed establishments are 37% less likely to be involved in drunk or alcohol-impaired driving than those who drink in unlicensed, private settings.

"III. Reducing Availability

1. Adopt or strengthen server/seller liability statutes and policies to encourage responsible serving and selling practices."

NLBA Response

The panel's recommendation is oxymoronic; while other policies may encourage responsible service, liability statutes do not.

Research and experience indicate that liability statutes do not encourage responsible selling and serving practices; and specifically do not reduce the risk of alcohol-related highway crashes. (34)

"At this time, in the absence of research data, the effectiveness of (seller/server liability) laws or variations therein is entirely a matter of anecdote, a priori speculation..." (Moore and Gerstein, 1981)

"...dram shop liability provides a vehicle for compensating victims of accidents caused by intoxicated persons but does not contribute to prevention of those problems." (Mosher, 1983)

There is no statistically reliable basis for concluding that there is any correlation between the incidence of alcohol related highway crashes and degree of server/seller liability imposed by statute or common law in or among the fifty states.

Alcohol-related highway crash rates are significantly higher in states where liability is greater, than in other states where liability is extremely limited. Examples of the opposite can also be found. (35)

The principal effects of seller/server liablility laws are: increased consumer costs; to support sellers' costs for liability insurance coverages; to insulate the seller from the costs and consequences associated with claims arising from alleged incidences of irresponsible service.

Seller/server liablility laws and the availability of "deep pocket" sellers' liability insurance tend to reduce consumer caution and concern for the potential financial consequences of their own irresponsible drinking behaviors.

To increase potential for encouraging implementation of more responsible serving and selling practices, federal agencies funded development of a "Model Alcoholic Beverage Retail Licensee Liability Act" which provides affirmative defences and limits liability for commercial servers and sellers who have completed responsible beverage service training courses and comply with certain "responsible business practices". (36)

At best, the "Model Act" encourages responsible and irresponsible sellers and servers to avail themselves of the affirmative defences provided. At worst, it discriminates against victims, denying equal compensation to some on the basis of the credentials and usual business practices of those who served the intoxicated persons responsible for their injuries.

To the extent that the "Model Act" reduces seller/server exposure, cost and liability, it is an improvement over liability laws which do not include the same "responsible business practice" provisions.

To the extent that it relieves consumers of concern for the consequences of their own illegal and irresponsible behaviors and provides mechanisms for insulating irresponsible sellers and servers against the financial consequences of unlawful service, the "Model Act" cannot be recommended.

Caution should be exercised with regard to recommending enactment of the "Model Act" or similar statutes, pending review and consideration of other less costly, less discriminatory, more direct, and more effective mechanisms for encouraging and implementing application of more responsible serving and selling practices discussed elsewhere in this response.

"III. Reducing Availibility

2. Prohibit happy hours and other reduced-price promotions;"

NLBA Response

Researchers have established no causal relationship between reduced-price promotions, such as happy hours, and alcohol-related highway crashes.

The Panel's recommendation offers no demonstrated potential for reducing alcohol-impaired driving.

Research indicates that, where there are no apparent restrictions or social controls on individual consumption, the amount consumed by any individual within the specified time period will be inversely related to beverage prices; consumption increases as beverage costs decrease. (37)

Research also indicates that normative "Happy Hours" occur at times of the day when consumers tend to be tired and hungry; circumstances under which alcohol is most rapidly absorbed into the system and its effects on driving skills tend to be most pronounced. (38)

These observations led a number of drunk-driving and abuse prevention advocates to correctly conclude that "Happy Hours Conditions" (early evening, cut-rate on-premise drinking) present a greater potential for abuse and alcohol-impaired driving than do "normal" (regular-rate, regular measure,) on-premise operations.

On-premise operators have long recognized the heightened risks associated with the "Happy Hours Condition". For that reason, most have consciously avoided promotions of that kind. When compelled, by competitive necessity to conduct those kinds of promotions, most on-premise operators have exercised particular caution, and intensified supervision to minimize their potential for increased abuse and alcohol -impaired driving.

Consequently, time-of-day and point-of-departure analyses of drivers in alcohol-related highway crashes and arrests reveal no statistical correlation between "Happy Hours" and the incidence of alcohol-impaired driving. (39)

Despite the potential for risk, there is no evidence that "Happy Hours" and other reduced-price promotions generate increased alcohol-impaired driving; and, no evidence that eliminating reduced-price promotions, would, can, or have effected any reduction of alcohol-related highway crashes in any jurisdiction.

Licensed on-premise establishment operators fully recognize that: Whatever the price of a drink may be, sellers and servers have a duty under the law, to protect their guests against the risk of overconsumption.

Prohibiting "Happy Hours" and reduced-price promotions will not make it any more illegal to serve an intoxicated person than it is at present in every state of the nation.

The panel's recommendation is superfluous; an unneccesary restraint of commercial freedom.

"III. Reducing Availability

3. Require training and certification of sellers and servers of alcoholic beverages;"

NLBA Response

There is no evidence that mandatory training is any more effective than voluntary training. There is some evidence to indicate that mandatory training may be less effective than voluntary programs in modifying business practices.

Research indicates that server intervention offers the greatest potential for long-term reduction of alcohol-impaired driving; (40) and, that server training, careful supervison, community support and vigilant enforcement of alcohol beverage laws are equally critical components of an effective on-premise prevention programs. (41)

Of these components, enforcement of existing laws and community standards relating to preventing abuse and exercising the duty of care associated with the license privilege hold the greatest potential for preventing abuse and reducing alcohol-related highway crashes.

Because their licenses and their livelihoods are wholly dependent upon the goodwill of the communities in which they do business, on-premise operators tend to reflect and respond to informal social attitudes and community standards relating to their business conduct.

Those whose operations do not conform to the legal or informal standards of the communities in which they operate risk losing their businesses, their licenses and their livelihoods.

Where informal social attitudes and formal social policies (laws) effectively demand that licensed operators effectively intervene to protect consumers against the risks of abuse and drunk or impaired driving, licensees are more likely to require training and closely supervise application of responsible serving practices.

Where government and community standards are less demanding, licensees are likely to be less demanding.

Without increased vigilance and vigorous enforcement, mandatory training is likely to be ineffectual. Where there is increased vigilance and enforcement, mandatory training is unecessary.

Since 1978, Wisconsin has experimented with a variety of server training programs, some voluntary and some mandatory. (42) Results of industry surveys indicate that where server training and certification are mandatory, management tends to be less directly involved and less likely to require or follow-up on server application of the principals and techniques of responsible beverage service, than where training and certification are voluntary and management sponsored.

Analysis of Wisconsin highway crash data reveals no statistically significant difference in alcohol-related highway crash rates over time in counties where server training has been mandatory, compared with those for counties with voluntary server training programs.

Recognizing the need to provide training and encourage application of more responsible beverage service standards, the Michigan Licensed Beverage Association developed and the National Licensed Beverage Association currently owns, distributes and provides assistance in implementing the Techniques of Alcohol Management (TAM) responsible beverage service program throughout the nation.

It has been our experience that, where government encourages and rewards application of progressive business practices, management tends to be more involved and the results more permanent, than where training itself is mandated and rewarded.

Government can best encourage sellers to apply responsible business practices by combining positive rewards, such as reduced license fees, with effective enforcement and appropriate action against those whose practices fall short of legal and community standards.

Mandatory server training is not an appropriate substitute for appropriate enforcement.

"III. Reducing Availability

4. Restrict alcohol sales by time and place at sporting, music and other events.

NLBA Response

Restricting sales in more controlled, supervised settings increases the risk of abusive consumption in less controlled, unsupervised settings.

Implementation of the panel's recommendation would increase the risks where consumer demand exceeds availability. Where consumer demand is less, restrictions need not be applied.

Consumers aware of such restrictions are encouraged to: drink more, and more rapidly at times when sales are open; "buy ahead" and consume later; bring their own; "load-up" prior to the event; or drink more immediately after the event, in the parking lot, in their cars or on the bus.

There is no evidence that such restrictions effect any reduction in abusive consumption or alcohol-related highway crashes involving events in which they have been applied.

There is substantial evidence that such restrictions do effectively reduce attendance, sales and profitability of those events.

"III. Reducing Availability

6. States should permit local governments to enact regulations that are more restrictive than State Alcohol Beverage Laws;"

NLBA Response

Implementation of the panel's recommendation would directly increase the risk of alcohol-related highway crashes in the jurisdictions affected.

Differences in local controls on availability and conditions of sale tend to increase mileage driven to satisfy consumer preference and demand.

One of the principal arguments for enacting a uniform nationwide minimum drinking age was that differences among states encouraged consumer travel from more-restrictive to less-restictive jurisdictions, resulting in "blood borders", areas along state boundaries with disproportionately high alcohol-related highway crash rates.

Similar "blood borders" resulting from travel between early closing and late closing jurisdictions resulted in creation of uniform hours in Wisconsin, in 1988.

"III. Reducing Availability

7. Strengthen laws concerning hours of sale, characteristics and density of outlets and other factors relating to retail availability of alcohol beverages;"

NLBA Response

Laws concerning hours of sale, characteristics and density of outlets should be adjusted, within prevailing community standards, to satisfy normative consumer convenience and demand.

Research and historic experience indicate that it is more hazardous to reduce legal availability below normative consumer demand, than to permit availability to rise above that level.

In the first instance, illegal availability rises to satisfy unmet demand. In the second, legal availability falls to the level of consumer demand.

"III. Reducing Availability

8. Increase enforcement of existing state and local Alcohol Beverage Control regulations and increase resources available for enforcement."

NLBA Response

To the extent that they reflect prevailing community standards and enforcement is also consistent with those standards, we concur that increased enforcement of existing Alcohol Beverage Controls is an appropriate step in preventing and reducing abuse and drunk driving.

"III. Reducing Availability

9. Eliminate the tax deductibility of alcoholic beverage purchases for business purposes."

NLBA Response

There is no research evidence to indicate that eliminating business tax deductions for alcohol beverages would have any measurable effect on business purchases of alcohol beverages, alcohol abuse, or alcohol-related highway crashes. The recommendation should be rejected.

"III. Reducing Availability

10. Prohibit or discourage selling practices that increase the level of alcohol-impaired driving."

NLBA Response

In every state of the nation, servers and sellers are already prohibited from serving intoxicated persons by whatever practice there may be. The panel's recommendation is unecessary.

Panel on Advertising and Marketing

"Alcohol advertising tends to glamorize alcohol use and provides a one-sided view without providing information as to consequences of such usage.

Therefore the committee recommend the following:

[Eight specific recommendations regarding advertising are made.]

Research

1. Fund research to determine:

   a. The effect of alcohol promotion advertising and other media content on different populations,

   b. Which specific advertising and entertainment content features contribute to higher vs lower levels of excessive drinking and alcohol-impaired driving."

   [Additional research is recommended to determine audience reactions, to various alcohol beverage advertising and public information campaign messages.]

NLBA Response

Absent conclusive evidence of any relationship between advertising and alcohol abuse or drunk driving, we urge the Surgeon General to reject all of the panel's recommendations regarding elimination, or restriction of alcohol beverage advertising, pending availability and review of the the research recommended by the panel.

Advertising and Marketing Panel Recommendations

"News Coverage:

1. Encourage comprehensive news reporting of alcohol related problems in general and crashes in particular.

   a. Have the Surgeon General develop a fact sheet on alcohol to be distributed to news organizations. This fact sheet should include information such as:

      1. Alcohol is a drug

      2. Alcohol is addictive

      3. The number of alcoholic-caused deaths including 25,000 traffic fatalities"

NLBA Response

The panel's call for comprehensive, factual, balanced coverage of "alcohol related problems in general and crashes in particular" is followed by a curiously unbalanced list of information and misinformation to be conveyed by and to the media.

It is entirely negative; and, it contains a serious factual error. There are no available national statistics on the number of highway deaths caused by alcoholics, alcohol-impaired, or drunk drivers. One state study of causal and non-causal drinking driver fatalities indicates that 28% were caused by a non-drinking driver. (43)

The panel's recommended statement provides ample evidence of the need for broad dissemination of factual information which places alcohol abuse and alcohol-related highway crashes in their proper perspective.

Except for alcohol beverage advertising, which does not offer much factual information about the product and its effects, current media coverage, commentary and discussion of alcohol issues focuses almost exclusively on the effects of addiction, abuse, and alcohol related highway crashes.

We concur with the panel's call for more balanced, more comprehensive and more accurate presentations on alcohol issues. We disagree that it should be more heavily weighted toward the negative side of the scale.

Report of the Transportation Panel

"B. Transportation

[Recommendations on alternative transportation] "

NLBA Response

The National Licensed Beverage Association and its state affiliates pioneered, developed and encourage our members to offer, participate in and share the costs of many of the alternative transportation programs advocated by the panel. We endorse those recommendations. We would be pleased to share our experience and assist others in replicating those programs elsewhere.

"C. Business Practices

[Recommendations on responsible business practices] "

NLBA Response

The National Licensed Beverage Association's Techniques of Alcohol Management (TAM) training program recommends, provides instruction in, and assists association members as well as non-member licencees in implementing all of the responsible business practices recommended by the Transportation Panel. We would be pleased to provide training and assist in implementing those practices wherever they are needed.

"D. Implementation and Incentives"

[Recommendations for enforcing and encouraging adoption of responsible serving practices.]

NLBA Response

The National Licenced Beverage Association supports those recommendations of the Transportation Panel which would reward businesses for adopting and applying responsible business practices.

NOTES AND REFERENCES

1. These initiatives include the Hughes Act, 19[illegible], decriminalization of public intoxication, and initiation of alcohol abuse treatment, prevention, intervention and rehabilitation programs among the states, creation of the National Institute on Alcohol Abuse and Alcoholism, initiation of Alcohol Safety Action Programs, enactment of implied consent laws [illegible], industry sponsored [illegible] training programs.

2. In this decade, the alcohol beverage industry developed and sponsored nationwide efforts aimed at preventing and reducing abuse and drunk driving, including: alcohol awareness programs "Alcohol In Moderation" (AIM)(Miller Brewing Company 19[illegible]), "Know When to Say When" (Anheuser-Busch, 1984); Server Training Programs, "Techniques of Alcohol Management" (TAM), developed by the Michigan Licensed Beverage Association in 1983, sponsored by the Stroh Brewing Company and currently administered by the National Licensed Beverage Association; programs directed at drinking and driving such as the National Liquor Stores Association's "[illegible] the keys when drinking", state licensed beverage association "Designated Driver" programs, dating from 19[illegible]; and, industry co-sponsored programs directed at youth, such as SADD and BACCHUS.

3. The nation's Drunk Driver Fatality rate per 100 million miles dropped 32%, from [illegible] in [illegible], to [illegible] in 1984. There were 4,000 fewer alcohol-related fatalities in 1986 than in 1980. Source: Fatal Accident Reporting System, FARS, National Highway Traffic Safety Administration, January 24, 1989.

4. Industry groups, such as the state licensed beverage associations are actively working to expand responsible beverage service training, alternative transportation, and designated driver programs. Law enforcement agencies, the courts, driver control authorities and convicted driver rehabilitation providers are working to improve comprehensive, cooperative impaired-driver rehabilitation programs, nationwide.

5. See recommendations of the Panel on Pricing and Availability.

6. See published proceedings for participant list.

7. See publications and prior public statements of participants.

8. The percent of intoxicated drivers in Wisconsin who had last been served in licensed on-premise establishments decreased from 76% in 1979, to 56% in 1985. Sources: Alcoholic *Beverage Abuse and Control*, Bureau of Alcohol and Other Drug Abuse, Department of Health and Social Services, Madison, WI, 1979; and "Last Call" Survey, Milwaukee County Council on Alcoholism, 1985, cited p. 17, Top Shelf, vol. 3, no. 3, December 1985.

9. "Price is a significant predictor of demand." Medicine In The Public Interest, *The Effects of Alcoholic Beverage Control Laws*, p.65, Washington, DC, 1979.

10. Bruun K., et al, *Alcohol Control Policies in Public Health Perspective* The Finnish Foundation for Alcohol Studies, Helsinki, 1975.

11. Jellinek E.M., "Recent trends in alcoholism and alcohol consumption," Quarterly Journal of Studies on Alcohol, Vol.8. (pp.1-42) 1947.

12. "Changes in the levels of alcohol-related problems tend to follow changes in the level of alcohol consumption in a given population. This is true particularly for physical effects of sustained heavy drinking, such as liver cirrhosis..." Robin Room, p.231, Pt. 1, U.S. Senate Hearing (100-834) on Causes and Consequences of Alcohol Abuse, May 25, 1988.

13. Walsh, B.M., and Walsh, D., Validity of Indices of Alcoholism: A comment from Irish experience. British Journal of Preventive and Social Medicine, Vol. 27, (pp. 18-26), 1973.

14. Sources: Steffens, R.A., Stinson, F.S., Freel, C.G., Clem, David, Surveillance *Report #10: Apparent Per Capita Alcohol Consumption, National, State and Regional Trends, 1977-1986*, Rockville, MD: National Institute on Alcohol Abuse and Alcoholism, Division of Biometry and Epidemiology, October, 1988; Alcohol Beverage Press.

16. See Surgeon General's Workshop on Drunk Driving, Expert Panel on Pricing and Availability Report.

17. See discussion, page 12, below.

18. Schaefer, James, Final *Report of the Scandinavian Drinking and Driving Study Tour*, University of Minnesota, Fall, 1985.

19. No reliable mechanism exists for [illegible] the effects of other concurrent market influences on the decreasing on-premise market share over the past [illegible]. Wholesale cost increases are [illegible] shifting consumption patterns.

20. National Licensed Beverage Association, The [illegible] Alcohol Beverage Community's Contribution to State and National Economies, Alexandria, VA, 1987.

21. "The ignoble effects of the Nation's so-called 'Noble Experiment' were many: The rise of gangsterism; The return of B-girls, prostitution, gambling and other petty criminal activities in taverns, saloons, speak-easies and roadhouses; Widespread corruption of officials and criminalization of otherwise law-abiding home-brewers and social drinkers; Increasing death and disability due to consumption of adulterated, poisoned, and spoiled alcoholic beverages." p. 12, Alcoholic Beverage Abuse and Control, 1979.

22. Associated Press, "Soviets' war on booze flawed" Wisconsin State Journal, April 12, 1988.

23. See, Moore and Gerstein, eds., Alcohol and Public Policy: Beyond the Shadow of Prohibition, Washington, DC, National Academy Press, 1981, p.35.

24. According to George Pequignot, et al, in the International Journal of Epidemiology, Vol.7, No.1, 1978, 93% of all cirrhosis are alcohol induced or underlying. In recent times, cirrhosis deaths have been reported either as non-alcohol underlying or alcoholic. Though rates for all cirrhosis deaths have decreased rates for those reported as alcoholic have increased, in some jurisdictions by more than 400%, in the past five years.

25. Bruun, 1975

26. Medicine In The Public Interest, 1976

27. Naor, E. M., and Nashold, R. D., "Teenage Driver Fatalities Following the Reduction in the Legal Drinking Age." Journal of Safety Research, June 1975, Vol. 7, No. 2; Birkley, M.M., and Quirke, M. A., "The Effect of Lowering the Legal 'Drinking Age' on 18 through 20 Year-old Wisconsin Drivers", Grassroots, October, 1979.

28. See, U.S. General Accounting Office Testimony before the Subcommittee on Oversight and Investigations of the Committee on Public Works and Transportation of The House of Representatives, (99-69), September 18, 1986, pp. 9-11.

29. See, Subcommittee on Oversight and Investigations Hearing (99-69), September 18, 1986, pp. 51, 117, 162, and 202-204.

30. "State youth driving less after drinking, but 21 law hasn't cut drunkenness by young" Wisconsin State Journal, January 10, 1989.

31. See, Bolotin, F., and DeSario, J., "The Politics and Policy Implications of A National Minimum Drinking Age", Case Western Reserve University, 1985, Table 2; Birkley, M., "Death and the Legal Drinking Age" The Blaney Institute, Madison, WI, 1983.

32. American Institute of Public Opinion (Gallup Poll), 1980-85.

33. Milwaukee County Council on Alcoholism, 1985.

34. Mosher, J. F., "Server Intervention: A New Approach for Preventing Drinking Driving" Accident Analysis & Prevention, Vol. 15, No. 6, pp. 483-495, (1985).

35. In 1983 and 1984, for example, Hawaii which has severe common law server liability, had the highest drunk driver death rate among the fifteen "Good" FARS reporting states. In the same years, Nevada, which had neither statutory nor common law server liability, had the lowest drunk driver death rate (percent of driver deaths that tested at or above .10% BAC) among the same fifteen states.

36. See, Western State Law Review, Volume 12, Number 2 Spring 1985.

37. Babor, T. F., Mendelson, J. H., Kuehula, J. C., Greenberg, I., "Study of Happy Hour Effects", 39th Annual Scientific Meeting of the Committee on Problems of Drug Dependence, Cambridge, Mass., July, 1977.

38. Moskowitz, H., Laboratory Studies of the Effects of Alcohol on Some Variables Related to Driving; in Perrine, M. W., ed. Alcohol, Drugs and Driving, U.S. Department of Transportation, NHTSA Technical Report, DOT HS-265-2-489, 1973.

39. See, Goldstein, H., and Susmilch, C., "The Drinking Driver In Madison: A Study of the Problem and the Community's Response", Volume 2 of the Project on Development of a Problem-Oriented Approach to Improving Police Services, University of Wisconsin Law School, Madison, WI, 1982."

40. "Prior to [responsible beverage service] training, 37.5%...left the bars legally drunk; the remainder left with blood alcohol concentrations in the range of .05 to .099. In contrast, [none] served by a trained server reached the legal level of intoxication. Slightly over half reached a BAC level of .05." Geller, E. S., Russ, N.W., Delphos, W. A., "Does Server Intervention Training Make A difference?", Alcohol Health & Research World, Vol. 11, No. 4, Summer, 1987.

41. Peters, J. E., "Beyond Server Training", Alcohol Health & Research World, Vol. 11, No. 4, Summer, 1987.

42. Beginning in 1976 with 4 hour "Beverage Server Training" Seminars sponsored and conducted jointly by industry and the Governor's Office of Highway Safety, Wisconsin on- and off-premise licensed beverage sellers and servers have participated in: 14 hour [illegible] of Madison programs; 6-8 hour "Professional Beverage Server" training developed and sponsored jointly by the Wisconsin Office for Highway Safety, The Tavern League and Tavern Hosts of Wisconsin, and the Vocational, Technical and Adult Education Board; 6-8 hour TAM: Techniques of Alcohol Management training; 2.5-6 hour TIPS: Training for Intervention Procedures by Servers of Alcohol;and, 3.5 hour Management/Server Awareness Program (National Restaurant Association) training.

43. Wisconsin Department of Transportation, "Causal and Non-causal Drivers in Alcohol-Related Highway Crashes", 1982.

44. Birkley, M. M., "Media under the influence", Top Shelf, Vol. 4, No. 3, May-June, 1987, pp.10-11.

45. Sykes, R.E., Schaefer, J. M., and Rowley, R. D., "An Observational Survey of Drinking Behaviors in Public Bars", University of Minnesota, Minneapolis, MN, 1988.

46. Jurisdiction studied, Wisconsin 1985-87.

47. Sources: Census Data, Characteristics of the Population, U.S. Census Bureau, 1985; Outlets, Wisconsin Department of Revenue, Excise Tax Bureau, 1985; Cirrhosis death data, U.S. National Center for Health Statistics, Monthly Vital Statistics Report, Vol. 36, No. 5 and unpublished data, 1985; Highway Crash Fatalities, National Highway Traffic Safety Administration, National Center for Statistics and Analysis, 1987 Fatality Facts.

TESTIMONY OF

WILLIAM H. LATHAM
CHAIRMAN
ALCOHOL AWARENESS TASK FORCE
NATIONAL RESTAURANT ASSOCIATION

BEFORE

THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

JUNE 21, 1989
WASHINGTON, D.C.

Mr. Chairman and members of the Senate Committee on Governmental Affairs, I am William H. Latham, President of Olde English Pubs, Limited, a foodservice company with establishments in and around Jackson, Mississippi. I also serve as Chairman of the National Restaurant Association's Alcohol Awareness Task Force. It is in the latter capacity that I appear before you today.

On behalf of the National Restaurant Association and its 20,000 member companies, I want to thank you for the opportunity to testify on the recommendations produced by the Surgeon General's workshop on drunk driving. About 60 percent of our members do in fact make part of their income from the sale of alcoholic beverages, consumed usually in conjunction with *hors d'oeuvres* or full meals. That does not mean, however, that they want to see intoxicated people in their restaurants or behind the wheel of a car. Like the great majority of Americans, they believe in the salutary pleasure of moderate consumption of alcohol and in responsible alcoholic beverage service.

In fact, since 1984 the National Restaurant Association has been involved in a comprehensive alcohol awareness program. In that year, our Task Force on Alcohol Awareness, responding to the report of the President's Commission on Drunk Driving, passed a series of resolutions calling for the action of our members in three areas:

1. We called for training for all servers of alcoholic beverages and produced an inexpensive training program that instructed servers on how to recognize the stages of inebriation and how to stop service to a guest who is becoming inebriated.

2. We called for involvement in public education about the dangers of drunk driving and produced a public service announcement for TV as well as appropriate table tents, posters and coasters for use in restaurants.

3. We called for the reform of in-house practices, where necessary, including the introduction of bar food to be served with drinks and alternative transportation programs, as well as the elimination of all promotions that might appear to foster intoxication, such as two-for-one offers and other multiple drink offers.

Early in 1984, we mailed to our membership this information packet which I submit for the record. It contained the booklet, A Restaurateurs Guide: Help Prevent Drunk Driving, which lays out this three-part program for alcohol awareness. We also distributed our server training program to each of 50 state restaurant associations so that it could be offered in every part of the country. Since that time, we have continued to educate our members about the need to commit themselves to our three-part program. They have been very responsive. In August, 1988, when we last surveyed our membership,

56 percent had trained all servers of alcoholic beverages

60 percent had alternative transportation programs available

65 percent had eliminated multiple drink offers

90 percent were serving (or offering free of charge) bar food with drinks.

In five years, we have come from partial awareness of the problem to active participation of the majority of our licensed members in our program. We are continuing the educational effort that will foster continued growth in the numbers of the those involved.

Because of our deep commitment to the fight against drunk driving, we were shocked to learn that the Surgeon General's Workshop was conducted without any input from official representatives of the foodservice industry. I know, Mr. Chairman, that you have already heard debate about whether or not organizations representing advertisers were invited to attend. I can tell you unequivocally that the National Restaurant Association was not informed about the workshop or invited to attend, although clearly a significant number of food establishments sell alcoholic beverages.

Furthermore, as far as we can ascertain, no association representing producers, distributors or retailers of alcoholic beverages was invited to attend, and yet a high percentage of the recommendations produced by the workshop would, if implemented, affect their operations directly.

When the first draft of the recommendations of the workshop was published, the National Restaurant Association submitted comments protesting the method of their development and their general content and emphasis. These comments were evidently not read before the final comments were issued, but filed for future reference.[1]

Similarly, the National Restaurant Association wrote to the Surgeon General requesting a meeting at which we hoped to point out the problems involved in the recommendations as they stood at that time. That letter of February 23, 1989 and two subsequent letters remain unanswered.

The absence of any input from those who actually sell alcoholic beverages to the public is evident in the recommendations as published on May 31, 1989. They contain a great number of proposals that would hinder the purchase of wine, beer or spirits by responsible citizens and few proposals that would actually deter the abusers of alcohol who violate the law.

The experience of restaurateurs suggest that two groups are the most serious offenders in regard to excessive consumption of alcohol and drunk driving. They are young people from ages 16 to 24 and problem drinkers. Our observations in this regard are verified by background papers submitted to workshop members when they met in December, 1988.[3]

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[1] At the press conference announcing the release of *The Proceeding of the Surgeon General's Workshop on Drunk Driving*, containing the final recommendations, the Surgeon General said, "All comments received--both pro and con--during the extended comment period *are being analyzed so as to further contribute to the knowledge base....*" [Emphasis added.) Clearly these comments were not read in time to correct errors and false emphasis in the recommendations.

Making it expensive or inconvenient for youngsters, particularly those below the legal age of purchase, or problem drinkers to purchase alcohol does not hinder them from doing so. To combat drunk driving among these people requires education, reasonable laws strictly enforced and treatment for habitual abusers.

Yet the recommendations produced by the Workshop display great ingenuity in developing means to reduce the availability of alcoholic beverages and little innovative thinking on means of improving and extending education, law enforcement and treatment.

For this reason, we submit that these recommendations need to be revised or repudiated.

Mr. Chairman, we cannot in the time allotted cover all the recommendations put forth by the 11 panels in the Workshop. We will, therefore, focus our attention on the two panels that produced recommendations concerning the dispensing of alcoholic beverages, which is of course our area of expertise. After discussing these recommendations, we would like to make a few comments on recommendations produced by the panels on education, judicial and administrative processes, law enforcement and treatment.

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[3] According to statistics included in M.W. Perrine et al., "Table 3," Epistemologic Perspectives on Drunken Driving, (document prepared for the Surgeon General's workshop on drunk driving), 36 percent of alcohol-related automobile accidents involve persons between 16 and 24; 35 percent of drunk driving convictions in one California study involved recidivism, Ibid. p. 20; analysis of six separate surveys of people arrested for drunk driving indicates between 50 and 75 percent are problem drinkers or alcoholics, according to Charles F. Livingston, "Repeat Offenders," a paper delivered at the National Commission on Drunk Driving Conference on Recidivism, (Atlanta, Georgia), September 16, 1986.

PANEL A

The panel on price and availability produced recommendations A1.1-A2.4, which would equalize excise taxes at both the state and federal levels on spirits, wine and beer, adjust the tax rate for past inflation and index the tax rate to the Consumer Price Index for future years. It should be pointed out that the resulting price increase is unconscionably high, amounting to 26 percent on spirits, 36 percent on beer and 48 percent on wine, with future increases to follow.

All kinds of Americans purchase alcoholic beverages, not just drunk drivers. Depending on their ethnic background, they use wine, beer and spirits in cooking and to accompany meals. This practice of course is followed in restaurants across the country. Chicken marsala accompanied by a glass of red wine, German beef roast cooked in beer and the like are served in homes and restaurants everywhere. By increasing the price of alcoholic beverages to such a high degree, federal and state governments would considerably increase the cost of meals at home and away from home, thus contributing significantly to inflation.

And to what end? Will higher costs of alcohol prevent a habitual abuser or a teenager out to prove how mature he is from obtaining a drink? The recommendations regarding price increase are excellent examples of actions that will have a negative effect on responsible users of alcohol and do little to reduce drunk driving.

Similarly, the series of recommendations listed under the title "Reducing Availability" (A.4-A.14) seem directed at making it more difficult or expensive for licensed operators to sell alcoholic beverages. Many are unnecessary; others are misguided.

The first recommendation (A.4)--that server/seller liability statutes and policies be strengthened--flies in the face of all that is just and reasonable. Third-party liability already exists by law or precedent in 41 states, where it provides an excellent opportunity for culpability to be transferred from the perpetrator of a crime to a third party. In most instances, suits of this nature are brought months or years after the incident when it is no longer possible for the restaurateur to build a defense. A jury sees an innocent victim who deserves reparation, a drunk driver without sufficient insurance and a restaurateur who does not know if the drunk driver was ever in his facility but has insurance or assets. So the restaurateur becomes the deep pocket into which the jury delves.

This is not justice. This is arbitrary reassignment of guilt that relieves the criminal of some portion of the punishment and of the deterrent against future crimes and which permits insurance companies to drive up liability insurance rates beyond affordability. That leaves the restaurateur to choose between paying an enormous insurance premium or "going bare" and at the mercy of any drunken person who claims he had his last drink in the restaurateur's establishment. We would ask the committee not to endorse a blanket recommendation to broaden this kind of miscarriage of justice.

A second recommendation (A.5) from this panel calls for prohibiting "happy hours." The language here is very imprecise. There is nothing wrong with "happy hours" *per se*. Nor do we think that any legislative body in the United States wants to prohibit Americans from gathering in a restaurant or bar to socialize for an hour after work.

The perceived problem here is half-price and multiple-drink promotions that have in some instances been offered during "happy hours." Since 1984, the National Restaurant Association, as I said earlier, has called for the elimination of such promotions and advocated *hors d'oeuvres* or bar food promotions be offered in their place. Furthermore, we have used book, videotape, magazine article and letter to convey this message to our members. This campaign has produced a marked decrease in half-price and multiple-drink offers and an equally marked increase in *tapas* and bar foods offered at discount or given away during happy hours.

The result is to take the focus off alcohol and place it on finger foods and conviviality.

Rather than endorsing the notion that communities should "prohibit happy hours," we would ask the committee to leave this matter in the hands of an industry that has already shown its determination to handle it appropriately.

Another recommendation (A.6) produced by Panel A would require training and certification of sellers and servers of alcoholic beverages. Again, this is a matter that the industry is handling itself. Since 1984, our server training program has been available at a minimal charge. We have been able to recommend to our members at least nine other programs that train their servers. In our last survey, more than half our members were training all servers, and sales of our training materials would indicate that this figure has risen significantly during the past year.

Again, I would urge the committee to leave this matter in the hands of the industry. Requiring certification of servers by local or state government will create chaos, confusion and unnecessary cost, to say nothing of new bureaucracy. Such a move would only be welcomed by the parties prepared to handle the required training and certification for the government. They would profit from the inevitable contracts and subcontracts that would be handed out. The losers would be the restaurateurs who would have to pay the fees involved and the public who would inevitably see an increase in their meal tab.

Let me address just one more of the recommendations made by Panel A before going on to another panel. In light of recent legislation, the recommendation (A.12) that tax deducibility for alcoholic beverages used for business purposes be eliminated strikes us as particularly onerous. It would most specifically affect the business marketing meal, and the Tax Reform Act of 1986 has already reduced the deduction on the business marketing meal to 80 percent. This change in the tax law, the recently imposed employer-paid FICA tax on tips, as well as other circumstances have had a heavy impact on some of the leading restaurants in the country. In New York City and Los Angeles, we are beginning to see an inordinate number of failures among well-known establishments. It is possible that we will see some of the great institutions in other cities fail as well before this phase ends.

Frankly, there is not much alcohol consumed during business meals. Few companies pay for their sales people to get drunk during a business meeting in a restaurant. Nevertheless, any further tampering with the deductibility of business meals is bound to cause further confusion and dampening of sales.

PANEL G

Let me now address some of the recommendations produced by the panel on transportation and alcohol service policies. Almost all of this panel's first eight recommendations (G.1-G.8) seem to us commendable. They call for a commission to coordinate and promote alternative transportation systems including designated driver programs. As I said earlier, we are committed to the concept of alternative transportation. We would be glad to serve on a commission reviewing this area of activity, and would appreciate community assistance in creating and maintaining alternative transportation systems.

We take exception to only two recommendations concerning transportation. The recommendation (G.4) that hours of "drinking establishments" (does the term include restaurants and liquor stores?) should be consistent with the hours of alternative transportation is too broad and sweeping. In New York City, this recommendation would mean alcohol would be available 24 hours a day. In small towns, it might never be available.

Another recommendation (G.7) that as a condition of obtaining a license to serve alcohol an organization must "develop and implement a specific plan" to provide alternative transportation is impracticable. One could not "implement" such a plan before obtaining a license and opening for business. It may not even be possible to "develop" such a plan until the clientele becomes familiar and the actual conditions of doing business are known. This recommendation would merely increase the paperwork that must be completed and reviewed in order to obtain a license without producing a viable plan.

Recommendations (G.9-G.20) on beverage service policies by and large recapitulate the material covered by Panel A. Discrepancies in wording and detail between the two sets of recommendations would cause considerable confusion if the recommendations were to be implemented. This kind of contradiction is evident in several other areas such as the various discussions of the Blood Alcohol Content level to be designated as legal intoxication. Repetition of proposals in varying language and detail is one of the weaknesses of the Proceedings as a guide for future action.

Nevertheless, many of the recommendations on beverage service policy (G.9-G.20) are unexceptionable. They recapitulate existing laws (patrons must produce valid identification, service to intoxicated patrons is prohibited) or concepts that the foodservice industry has already espoused (training should be available, food should be offered with drinks).

One recommendation (G.18) that is unacceptable proposes that all alcoholic beverages be served in "single-serving, standard sizes." Our task force considered that question carefully and concluded that single servings were appropriate, but that establishing standard-size glasses for each kind of alcohol served within a jurisdiction is not feasible.

Mr. Chairman, we now come to the recommendations (G.21-G.27) under the heading "Implementation and Incentives." We find them, in a word, appalling. What is proposed here is that practices already embraced and implemented by the foodservice industry be imposed by regulatory agencies and law officers. The very terms used in these proposals speak for themselves: "Vigilant enforcement by regulatory agencies," "review of regulatory agencies," "adjustment of licensing fees for compliance," "maximized dram shop laws for preventive impact," and "certify server and manager training." Increasing this kind of coercion where voluntary activity is already evident amounts to harassment. It is the tactic of those who believe there is something immoral or indecent in serving a glass of wine with a meal.

The great majority of restaurateurs throughout the country are responsible citizens who have created environments in which alcohol is sold responsibly to sober diners as accompaniment to meals. There may be among them a few who abuse the privilege of selling alcohol, but these few are easily identified. There are laws already on the books in every state forbidding sale of alcohol to those who are under 21 or who are intoxicated. If authorities in each state enforce those laws alone, they will be able to ferret out the irresponsible vendors. A more intricate net of regulations, fines and penalties is not necessary.

It should also be noted that Panel G has recommended penalties and coercion to achieve many of the same goals that Panel A suggests can be achieved through voluntary effort. Again, this kind of inconsistency is not only irksome, but also suggests some significant difference of opinion among members of the Workshop on a matter of great import to foodservice operators. If in fact the object of the Surgeon General's Workshop is to make recommendations that will reduce drunk driving and not to inhibit moderate consumption of alcohol, then these recommendations (G.21-G.27) are totally misdirected. They turn the energy of local law enforcement against the dispensers of alcohol, not against the perpetrator of the crime in question, the drunk driver.

Mr. Chairman, this brings us to the second half of our comments on the recommendations of the Workshop. I would like now to comment briefly on the recommendations concerning education, law enforcement and treatment.

The National Restaurant Association believes that the way to curtail drunk driving is to change the norms of our society and make intoxication and driving while intoxicated socially unacceptable. For this reason, we looked to the recommendations of the panels dealing with education, law enforcement and treatment with high expectations. Although we find among the recommendations of those panels points to be commended, we see there neither a complete grasp of the problems involved nor a broad vision for correcting them. Certainly, there is none of the uninhibited enthusiasm shown by the panels which directed their attention to pricing, availability or sales practices.

PANEL D

Although the panel on education lays out some useful assumptions and calls for useful guidelines, it nowhere calls for the broad national educational campaign that is needed. It comes close when it recommends (D.9) increasing the level of knowledge and awareness about drinking and driving prevention. Unfortunately, its strategy consists of distributing copies of the Proceedings of the Workshop to the public and in particular to the associations that were not invited to attend the Workshop. Most of its other recommendations amount to preaching to the choir.

We would have hoped to read more about utilizing the media to educate the public about the dangers of drunk driving and to create new societal norms in this regard. (D.16 seems to allude obliquely to this possibility.) To date, this important work has been carried out almost exclusively by a few advocacy groups and by just those associations that were excluded from the Workshop. The public service announcements and other materials produced by the Licensed Beverage Information Council (LBIC) around the theme "Friends don't let friends drive drunk" are exemplary models for future education through the media.

PANEL E

Several of the recommendations of the panel on judicial administrative process have merit and should be strongly supported.

Its first recommendation (E.1), apply hard driver's license revocation for offenders, is a case in point. Since 1984, the National Restaurant Association has supported automatic revocation of an operator's license for conviction of driving under the influence. In addition, we have supported implied consent laws which revoke an operator's driving privilege if the operator refuses to submit to a breath or blood test.

We would like to point out, however, that the recommendation (E.7) that penalties associated with implied consent laws be sufficiently more severe than penalties associated with failure of a chemical test or of an alcohol related conviction is probably unconstitutional.

Possession of a driver's license is a privilege, not a right. This privilege can be withdrawn without violating the constitutional protection against self-incrimination. Imposition of a penalty for refusing to incriminate one's self, which is "sufficiently more severe" than the penalty for an "alcohol-related conviction," is incompatible with the tenets of the Constitution.

What we miss among the recommendations of this panel is any recognition of, and proposal for curtailing the major alcohol-related problem facing restaurateurs today. Since the legal age of purchase was raised to 21, the use of false identification to attempt to purchase alcohol has become normative behavior among high-school and college-age people. Youngsters from law-abiding homes and in many instances their parents condone the use of falsified papers to gain entrance into establishments in which alcohol is sold and to purchase drinks. In many jurisdictions, false identification is sold on Main Street and advertised in shop windows.

This problem, which has grown to enormous proportions in the past few years is ignored by the panel, no doubt in part because no representative of the restaurant industry was there to point it out.

The National Restaurant Association has made the following recommendation to the Secretary of Health and Human Services, the Surgeon General, NHTSA and others:

1. A uniform standard for identifying persons under 21 year of age on their driver's license should be adopted. Some states use a profile photo, other states use a different color background in the photo. However, there is no uniformity.

2. The penalty for age misrepresentation by use of false documents or any other method by persons under 21 should be suspension of driver's license. Some states provide for incarceration and/or monetary fine--penalties which are deemed too severe are not imposed. Loss of driving privileges would be imposed and would be a strong deterrent to illegal purchase of alcoholic beverages.

3. The producers of false identification for use by those under the legal age of purchase should be subject to incarceration and/or monetary fine.

Returning again to the recommendations of Panel E, we also question the recommendation (E.15) which would apply "judicial, prosecutorial and administrative penalties" to legal providers of beverage alcohol. This is another unnecessary attempt by the workshop to enact disincentives, with criminal penalties, against the manufacturers, distributors and retailers of beverage alcohol.

PANEL F

We read with interest the comments included by the panel on law enforcement. It is significant that the strongest statement on public education is made by this panel. Clearly, there is agreement that the most effective deterrent to alcohol abuse is changing public attitudes, but we would add that law enforcement--the apprehension and punishment of those who actually drive while intoxicated--is an essential part of the educational process.

We applaud recommendations involving training programs for law enforcement executives (F.1) and the use of whatever innovative techniques of DUI testing and enforcement are available (F.2, F.4). We once again commend recommendations that administrative license suspensions and revocation procedures be generally adopted and lament the absence of any reference to the problems created by widespread use of false identification.

PANEL J

We read the recommendations of the Panel on treatment with grave disappointment. Given the sponsorship of the Surgeon General's office and the connection of that office with the health establishment, we had hoped that the Workshop would produce some salutary recommendations for the treatment of repeat drunk driving offenders and alcohol abusers. What we find instead is an implicit admission that there is no consensus on how to treat such people successfully.

In light of the high percentage of drunk driving accidents caused by repeat offenders and our own perception that alcohol abusers are a major part of the drunk driving problem, we would expect the Surgeon General's office to concern itself with finding the funds and expertise to develop successful treatments. In fact, our attention in that area and a little less attention to retailing procedures would seem appropriate.

We wish to conclude our testimony by raising one last issue: the blood alcohol level that determines legal intoxication. Throughout the Proceedings are found numerous suggestions for changing the blood alcohol content (BAC) determining intoxication from .10 to some lower percentage. Although these suggestions are contradictory, the general recommendation seems to call for.08 in the immediate future and .04 by the year 2000.

In the opinion of the National Restaurant Association, this recommendation needs extensive review by the public before it is implemented. At .04, a person weighing 120 pounds would be legally drunk after one four-ounce glass of wine or one 12-ounce glass of beer. An individual weighing 160 pounds would be borderline at two drinks. It remains to be seen if the American public wants to define intoxication as the effect of one drink.

It is significant that 80 percent of all alcohol-related accidents involve drivers with BAC of .10 or higher.[3] That being the case, it would be counterproductive to direct law enforcement officers to search out drivers with a .04 BAC.

The outrage of the public is directed at the alcohol abuser and not at the individual who has one drink after work or with dinner in a restaurant. As prohibition and the 21-year-old drinking age have taught us, it is extremely difficult to enforce a law that does not have public support. Legal intoxication at .04 could well prove to be a case in point.

CONCLUSION

The National Restaurant Association's initial objection to the recommendations of the Surgeon General's Workshop on Drunk Driving arose from the organization of the three-day meeting. The exclusion of the associations that represent the producers, distributors and retailers of alcoholic beverages made it seem likely that their interests, problems and accomplishment in regard to preventing drunk driving would be ignored.

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[3] "Executive Summary," Reference Manual of the Alcohol Highway Safety Workshop Series, National Highway Traffic Safety Administration, 1988, p. 1; this document was included among background papers distributed to Workshop members.

A careful review of the recommendations leads us to conclude our fears were well-founded. The recommendations are full of proposals that would curtail the availability of alcoholic beverages and deficient in new methods of addressing the education, detection, punishment and treatment of actual offenders.

Reducing the availability of alcohol is the wrong approach to the drunk driving problem. Adding inconvenience and cost in regard to the purchase of alcohol would deter moderate drinkers from enjoying the pleasures of wine, beer or spirits. The worker who wants a beer and some peanuts after a long day at the office, or the diner who wants a glass of wine with his dinner would be penalized. The problem drinker and the youth who has not learned to handle alcohol as yet will obtain their drinks by hook or crook. As concerned as Americans are about drunk driving, it is not clear that they will tolerate the implementation of recommendations that would deny responsible citizens the pleasure of moderate drinking.

The principle behind the reduction of availability in order to curtail drunk driving is the same as the principle behind prohibition. We should have learned in the thirties that curtailing the legal supply of alcohol will not stop alcohol abuse. More recently in the Soviet Union, Mr. Gorbachev has attempted to reduce alcohol abuse by reducing availability. He too failed and has been forced to revise his stance. A wise society learns by its own mistakes, especially when they are reinforced by the mistakes of others.

The recommendations of the Surgeon General's workshop on drunk driving embody an approach to the problem which has been proven inadequate. For this reason and because they are divisive, the National Restaurant Association believes it would be a mistake to implement them now. Every responsible individual in the nation wants to do something to reduce drink driving and to do that thing soon. To implement the wrong program, however, for the sake of acting now would be extremely counterproductive. We believe that all the parties involved in the campaign against drunk driving should continue working toward developing a consensus on how to rid our country of this scourge. As that consensus emerges, all parts of our society can work together to eliminate the problem once and for all.

[From the Wilmington News Journal, June 14, 1989]

CHRISTIANA H.S. SURVEY FINDS 3 OUT OF 5 DRINK

(By Sandy Dennison)

Nearly three out of five students at Christiana High School drink alcohol, 57 percent are sexually active, and almost 40 percent have thought of killing themselves, a recent survey found.

So the Christiana school board unanimously agreed Tuesday night that Christiana High next fall will become the site of the state's third student Wellness Center, offering a range of health services.

"It's the mental and emotional health services that are sorely needed." Christiana Principal Richard L. Kapolka said. The clinic's aim is "to ensure that students are physically as well as emotionally prepared to take advantage of the educational opportunities."

"Unfortunately, Christiana High School students have the same problems as adolescents nationally. They are no worse, but they are no better," said Barbara Hearne, project manager for the Visiting Nurse Association of Delaware, which will run the center.

Wellness Centers are operating at Middletown and Sussex Vocational Technical high schools. The Capital school board is to decide next week on whether to open a center at Dover High. The centers are funded through the state Division of Public Health.

Christiana High's center is to open Oct. 2 with a full-time social worker-coordinator and a part-time physician, nurse practitioner and drug and alcohol counselor. Students can use the center free if they have written permission from their parents.

Among the clinic's services will be routine physical examinations and sports physicals, treatment of minor injuries, laboratory tests, pregnancy testing, and drug and alcohol counseling. It will not offer contraceptives—though nearly 70 percent of the 277 parents who responded to a survey said they would support the clinic prescribing and dispensing birth control.

The Visiting Nurse Association would like to provide testing and treatment for sexually transmitted diseases. Officials are checking whether those services are permissible under State Board of Edcuation guidelines, then the Christiana board will consider whether to give its approval.

Hearne explained that one in four Delawareans aged 15 to 19 gets a sexually transmitted disease, compared with one of seven nationally. Seventy percent of the parents surveyed endorsed diagnosis and treatment of sexual diseases.

A committee of parents, teachers and health workers recommended what services the clinic should offer after surveying students, school staff and parents. Christiana board President James W. Kent said the committee's most frightening finding was that although many students reported they use alcohol or drugs, they didn't perceive substance abuse as a problem for themselves.

Some results of the parent poll, and of two separate surveys that each covered about 350 of Christiana's nearly 1,300 students:

About a fifth of the students don't see a doctor regularly, and about the same number possibly don't have health insurance.

Nearly half the students reported "feeling down lately," 39 percent said they'd considered suicide, and 23 percent were "highly stressed."

Of the 57 percent of students who said they have had sex, 27 percent don't use contraceptives.

Nearly 60 percent drink alcohol, and more than a third of that group drinks at least once a week, according to the survey.

Seventeen percent said they smoke marijuana, and 70 percent of those use it daily. About 6 percent use other illegal drugs.

About one out of five students smokes cigarettes, with more than half smoking at least half a pack a day.

As we continue to make progress in reducing drunk driving, it is important to remain focused on methods to reduce alcohol abuse, rather than attempting to discredit all beer consumption as somehow inappropriate.

Specifically, we wish to draw attention to some of the unsupported assumptions which underlie recommendations to increase beer excise taxes and restrict legitimate advertising and promotion of malt beverage products.

RAISING BEER TAXES

The Surgeon General has proposed a ninefold increase in the federal excise tax rate on beer. This would be achieved by equalizing the current tax rate with distilled spirits and raising the rate even further by adjusting for inflation since 1970. The Surgeon General's Workshop which developed this proposal also recommended the same tax formula for each state, which would result in a fourfold increase in the average state excise tax rate.

The effect of such an increase would raise the price of beer by more than $7 a case.* Beer would be turned into a luxury item. A person who consumes one six-pack a week would be singled out for a tax increase of almost $100 annually.

This tax burden would fall most heavily on working Americans of modest means. Households with annual incomes of $35,000 or less account for two-thirds of all beer sales. As a foundation for fair tax policy, this hardly makes sense, particularly in view of the fact that the gap between the nation's richest and poorest citizens has actually widened over the past decade (House Ways and Means annual report on Federal assistance programs, 1989).

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* According to the Surgeon General's Workshop formula, the federal excise tax would increase from $9 per barrel to $87.89 per barrel. This amounts to a federal excise tax increase of $1.43 per six-pack. At the state level, the average excise tax would increase from $6.20 per barrel to $24.37. This amounts to an average state excise tax of 33 cents per six-pack. In total, the federal and state tax on beer would be $97 per barrel, compared to $15.20 now -- a sixfold increase. The tax increase would amount to $1.76 per six-pack.

This massive tax increase would certainly discourage consumption among responsible, moderate drinkers. Using standard price elasticity models (which might not be accurate in the case of such an unprecedented increase), total beer industry sales would decrease by 21 percent. If industry employment declined a like amount, that would mean the loss of 28,000 American jobs among brewers and beer wholesalers alone, with additional unemployment among farmers, can and bottle manufacturers, retailers and others.

How would this help the drunk driving problem?

Chronic abusers and underage drinkers -- the groups cited as most involved in drunk driving -- would be the last to change their drinking practices. While a chronic abuser might shift brands, moving to a more concentrated form of alcoholic beverage if excise taxes were equalized, very few would reduce their consumption of alcohol. Similarly, young people who are drinking illegally, risking their driver's license and a confrontation with parents and school authorities, are not likely to change their behavior because of a price increase.

The practical result of the massive tax increase suggested by the Surgeon General would be to discourage consumption among responsible, "mainstream" consumers, without affecting the behavior of abusers.

The underlying assumption of such a tax increase is that all alcohol consumption should be discouraged. The idea is to make all consumption a "fringe" activity. This kind of approach will not work in reducing drunk driving. It will affect the lives of millions of responsible drinkers, without getting at the problem -- alcohol abuse.

ADVERTISING AND OTHER BEER PROMOTIONS

The Surgeon General has also recommended restrictions on beer advertising and promotions. Specifically, it has been suggested that business tax deductions be eliminated for all beer advertising "which focuses on life-style rather than the price and product." Additionally, advertising and promotions, "especially those which reach underage youth," should be restricted.

These proposals assume that advertising promotes underage drinking and alcohol abuse. Yet, third-party scientific research and the Federal Trade Commission have all concluded the opposite -- there is no evidence that advertising is involved in either underage drinking or abuse. The purpose of advertising is to influence brand selection among existing, adult beer drinkers.

In a comprehensive review of existing scientific research, the Federal Trade Commission staff in 1985 found "... no reliable basis to conclude that alcohol advertising significantly affects consumption, let alone abuse."

Furthermore, a review of the effects of advertising regulation on consumption rates by the Traffic Injury Research Foundation of Canada (1984), led to the following conclusion:

> "The results show two countries with reasonably high similar per capita consumption, one of which prohibits advertising (Hungary), the other permits it across all forms of media for all beverage types (Australia); two countries have moderate levels of consumption -- one of these (Denmark) prohibits advertising, the other (Netherlands) permits it; three countries have low consumption rates -- two of these (Finland and Norway) prohibit advertising, one (Japan) has no restrictions.
>
> "If advertising has effects on consumption, it is not evident in these data."

Considerable scientific research reinforces the conclusions that advertising does not play a role in the issue of teenage drinking. Two examples illustrate this point:

(1) The Addiction Research Foundation in Toronto, Canada, exposed 125 male college students to beer advertisements in a variety of controlled situations. The conclusion: "Our studies have both policy and methodological implications. First, they do not support strong concern about the effects of televised beer advertising on a young male population, even with ongoing immediate access to beer." (Journal of Studies on Alcohol, Vol. 45, 1984)

(2) A researcher for the World Health Organization's Division of Mental Health noted that "advertising is unlikely to recruit drinkers directly from those young people who are non-drinkers." He pointed out that "... there was also an interesting relation between advertising exposure and those who were problem drinkers: they were found to have been exposed to less advertising than moderate drinkers. This implied that advertisements might actually inhibit alcohol misuse, by reinforcing and encouraging norms of moderate, social drinking." (Marcus Grant, "Preventing alcohol-related problems amongst young people," ~~World~~ Health Organization. Paper for third ACMR Workshop on biobehavioral sciences and mental health: alcohol-related problems and their prevention, with particular reference to adolescence, 1984)

It is widely recognized that parental guidance and peer pressure -- not marketing and advertising -- are the major determinants of underage drinking. Other predictors identified by the Congressional Office of Technology Assessment (Dr. Bernard Saxe, 1983) include residence in urban areas, divorced or separated parents and a poor parent-child relationship.

Dr. Koop's recommendations do not address these factors.

Anheuser-Busch recognizes the importance of the underage drinking problem in this country and the sensitivity of this population. The company follows specific guidelines for marketing to young adults -- that is, adults who are in their early 20s -- to ensure that marketing practices do not encourage underage drinking or overconsumption. Models used in Anheuser-Busch advertising must be 25 years of age at a minimum.

Additionally, the company has been aggressively involved in programs which deal directly with the problem of underage drinking. For example, Anheuser-Busch is a major corporate sponsor of Students Against Driving Drunk (SADD), which uses the power of peer pressure among teens to discourage underage drinking and drunk driving.

Despite lack of evidence that advertising and promotions has any role in the alcohol abuse and underage drinking problem, the Surgeon General has recommended that beer commercials be "balanced" by anti-alcohol "pro-health" and "pro-safety" commercials.

Certainly, Anheuser-Busch has been involved in responsible drinking commercials for many years, including prime time "Know When To Say When" television advertising which have been running during holiday periods and special events since 1985. These commercials remind normally responsible adult beer drinkers to be aware of their limits and to avoid potential drunk driving situations. The costs of expanded efforts in this area will be equivalent to the amount spent on a new beer brand.

That having been said, it is important to remember that the proposal to "balance" beer commercials with anti-alcohol advertising makes the incorrect assumption that beer commercials promote alcohol abuse and underage drinking. As previously discussed, the evidence does not show that advertising is in anyway involved with abuse. Budweiser ads are not "anti-health" or "anti-safety." While there is certainly a need for education about responsible drinking, there is no legitimate rationale for a government requirement to "balance" these commercials.

THE PROPER EDUCATIONAL APPROACH

Dr. Koop's attempt to link anti-alcohol counter advertising and product commercials betrays an apparent intention to depict all alcohol consumption as socially undesirable, rather than focusing attention on abusive consumption that can lead to drunken driving.

Anheuser-Busch wholeheartedly supports public information, education and strong enforcement of existing laws. We will continue our efforts to be involved in the public education effort, through our existing programs and additional activities which will be developed in the future. A list of Anheuser-Busch programs to promote responsibility has been included as an appendix to this testimony.

However, a major question that must be asked when endorsing the objectives of public information and education is the content of those efforts. Dr. Koop's legislative agenda indicates a desire to reduce abusive drinking by adopting government policies that penalize all drinkers. Similarly, federal and state agencies, anti-alcohol activists and some educators insist on depicting alcoholic beverages as intrinsically dangerous. Some have gone so far as to equate alcoholic beverages with crack, cocaine and heroin.

There is no reason whatsoever to think that comparing alcoholic beverages with illicit drugs, or attempting to brand all drinking as dangerous in the name of "education" will foster development of responsible drinking practices in our society.

Educational efforts undertaken by our government and others should be truthful and fair. Without objectivity and balance, communication can be destructive rather than instructive.

There are major differences between illegal drugs and malt beverages.

Beer is a legal beverage which, consumed responsibly, can be consistent with a healthy life-style. In fact, a number of scientific studies have associated sensible consumption with health benefits, including reduction in the risk of cardiovascular disease. These findings deserve further study. On the other hand, marijuana, crack, cocaine and heroin are illegal substances which are destructive to the user's health regardless of the frequency or quantity of use.

Beer is produced by a legal, strictly regulated industry which employs tens of thousands of Americans, provides billions of dollars annually in state and federal taxes and directly contributes $44 billion to the American economy each year. Illegal drugs are produced by a criminal, unregulated industry which pays no taxes and makes no positive contribution to society.

Beer is usually consumed as a refreshment and the vast majority of beer drinkers consume beer responsibly and moderately. Illegal drugs are used to radically alter the normal physical and emotional state. There is no such thing as responsible or moderate use of illegal drugs.

What can be the goal of depicting beer as the equivalent of illegal drugs, if it is not to unfairly and inaccurately brand all alcohol consumption as intrinsically dangerous and socially unacceptable.

Do we really want to tell our young people that their parents are doing something wrong because they enjoy a glass of wine or beer? Are we trying to suggest that crack or cocaine are not more dangerous than a glass of beer?

As two experts on underage drinking noted:

> "One-sided presentations of any social problem, whether involving sex, drugs, tobacco or alcohol, tend to be self-defeating because they turn off young people who can see through their basic dishonesty." (Vogler and Bartz, "The Better Way to Drink," Simon & Schuster, 1982)

If the goal of Anheuser-Busch's educational efforts could be summarized briefly, it is to develop healthy and realistic attitudes about the consumption of beer and other alcoholic beverages.

When a parent consumes a beer responsibly in front of a child ... at dinner or during a social occasion ... he or she is sending a positive message about the proper way to consume alcohol as an adult in our society. The goal should be to place beer within its proper context in our society. It is a normal part of life when consumed responsibly by adults. It should not be abused or consumed by teenagers.

If, on the other hand, we depict all alcohol consumption as intrinsically dangerous and adopt government policies which penalize all drinkers, we will eliminate the positive role models and reduce the numbers of responsible, moderate drinkers.

If that happens, it is far more likely that any decision to drink will be a decision to abuse alcohol. And, we would all lose.

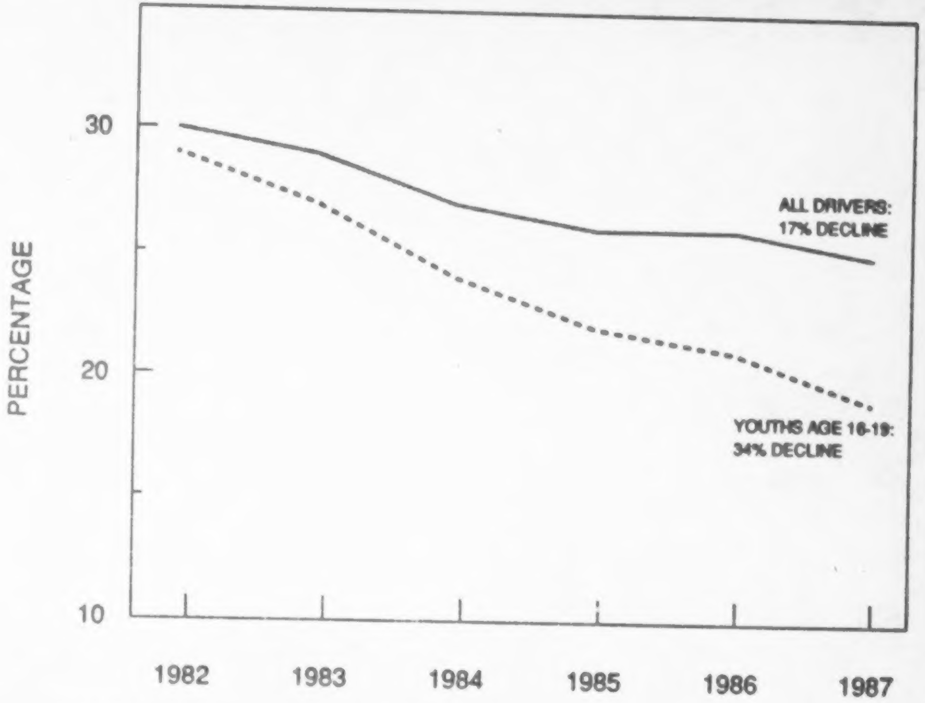
CONCLUSION

Anheuser-Busch supports the goal of continuing the reduction of drunk driving. It supports programs which focus on abuse, without penalizing millions of responsible beer drinkers. Higher beer excise taxes and restrictions in legitimate advertising and promotion of products attack all consumption of alcohol, without drawing a distinction between responsible drinking and abuse. For this reason, these kinds of efforts are not a proper governmental approach toward developing healthy and realistic attitudes about alcohol in our society.

Respectfully submitted by,

Stephen K. Lambright
Vice President and Group Executive
Anheuser-Busch Companies, Inc.

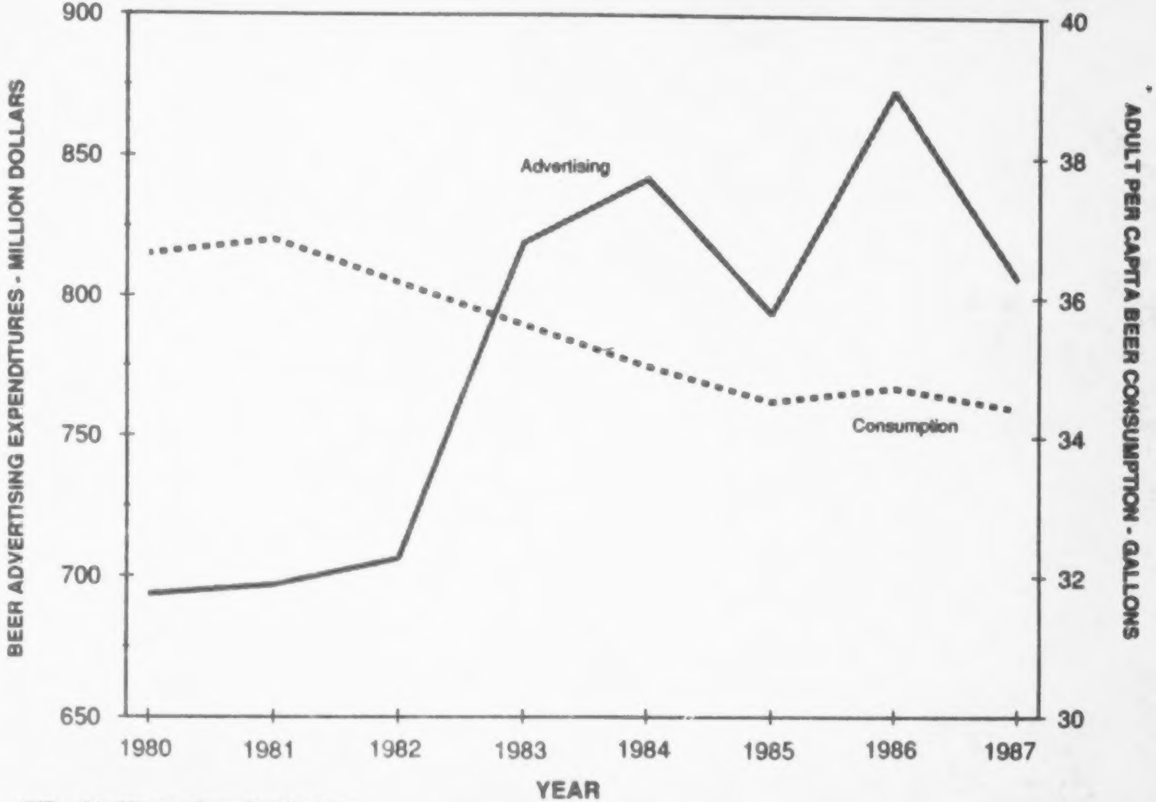
PROPORTION OF DRIVERS INVOLVED IN FATAL ACCIDENTS WHO WERE LEGALLY INTOXICATED



SOURCE: Fatal Accident Reporting System 1987, U.S. Department of Transportation, National Highway Traffic Safety Administration

NOTE: Chart reflects proportion of drivers in fatal accidents with BAC's equal to or above 0.10%

BEER ADVERTISING AND ADULT CONSUMPTION - 1980-87



NOTE: Advertising expenditures adjusted for inflation

SOURCE: Advertising Expenditures - R.S. Weinberg, 1988
Beer Consumption - The Beer Institute, 1988

OPERATION ALERT PROGRAMS

KNOW WHEN TO SAY WHEN

"Know When To Say When" is a model consumer education campaign developed by Anheuser-Busch to encourage consumers to drink responsibly -- and ultimately combat alcohol abuse.

A primary part of the "Know When To Say When" campaign is a series of television commercials, aired extensively during holiday periods, which remind consumers not to over-indulge.

In addition, the television commercials are supported by consumer and trade media advertisements placed throughout the year in a variety of national publications.

I'M DRIVING

"I'm Driving" is an Anheuser-Busch sponsored program to promote the use of designated drivers. The basic idea of the program is: One person out of a group of customers is designated to provide transportation during the evening. That person refrains from drinking and, in return, may receive free or reduced-price food and soft drinks from the retailer.

Such programs have become increasingly popular among retail establishments, patrons and law enforcement officials. Last year, a handful of governors and mayors proclaimed "Designated Driver Week," and many state highway departments helped sponsor the event.

While these groups recognize that designated driver programs are not a substitute for responsible drinking, they also realize the importance of having someone who is in control behind the wheel.

One Gallup poll indicated that 91 percent of those who attend social functions where alcoholic beverages are served support the concept of a voluntary "designated driver" program.

ALERT CAB

Although great progress has been made in educating the public on responsible drinking, some customers still overindulge on occasion. When they do, we want to make sure they don't drive.

For this reason, we continue to recommend the Alert Cab program, which provides a free or reduced-price taxi ride home to customers in taverns or restaurants who are unable to drive safely.

YOUR ALCOHOL IQ

"Your Alcohol IQ: Celebrities Challenge the Moderation Generation" is a fast-paced, star-studded video production that uses well-known entertainers and alcohol experts to teach consumers about alcohol use -- and abuse. It is the latest in our ongoing efforts to combat alcohol abuse and encourage responsible drinking. It uses a question-and-answer format and encourages viewers to get involved.

The videotape has been made available to the public as a free rental at video stores nationwide. You have an excellent opportunity to expand that viewing network by offering the tape to groups and organizations in your community.

GOOD SPORT

"Good Sport" is a turnkey program of communication, training and management activities designed to help stadium operators, team owners and concessionaires address the problem of disruptive crowd behavior.

These activities are designed to deal primarily with problems at sporting events. However, the program could also apply to most gatherings of large crowds, whether the occasion is a street festival, a music concert or other special event. Flexibility is one of the strengths of the Good Sport program.

Good Sport and its distinctive logo can provide identification and public visibility for the many efforts of stadium management, team owners and others as we all work to preserve the quality of these unique experiences that are part of the American sports tradition.

THE BUDDY SYSTEM

"The Buddy System" is an education campaign designed specifically for college students and other young adults of legal drinking age ... many of whom are living away from home -- and from their parents -- for the first time in their lives.

Aimed at reducing alcohol abuse through education, the program provides the following information for college students and young adults:

- Facts about how to consume alcohol beverages responsibly and what habits to avoid.
- Details on how to hold safe, responsible parties.
- Suggestions on how to avoid driving under the influence of alcohol by setting up a telephone system in housing units, student organizations or apartment complexes.

The individuals who make up this age group are making decisions about beer and other alcohol beverages that probably will remain with them for the rest of their lives. If they choose to drink, our goal is to provide them with the information they need to drink responsibly.

PIT STOP

"Pit Stop" is a program designed to give motorists a place to take a break from driving, to have a free snack and to receive some information about Anheuser-Busch programs to promote responsible drinking.

In its original form, Pit Stop was developed to encourage college students to be responsible during Spring Break and other school vacation periods.

Because of its overwhelming success -- and the creativity of many of our wholesalers -- Pit Stop has been expanded to include a variety of other activities that require long-distance driving, including the opening of hunting season, three-day weekends, football game weekends and others.

TIPS

Server training is designed to help servers of alcohol recognize the signs of intoxication in customers ... and to respond effectively to prevent alcohol abuse and potential drunk driving situations.

One such program, "TIPS" (Training for Intervention Procedures by Servers of Alcohol), was developed by Dr. Morris Chafetz, one of the nation's leading authorities on alcohol and the founding director of the National Institute on Alcohol Abuse and Alcoholism.

S.A.D.D.

Underage drinking is one of the most challenging problems the brewing industry faces. We at Anheuser-Busch want to help ensure that the youth of each generation do not senselessly lose their lives in alcohol-related accidents.

For that reason, we are a [illegible] corporate sponsor of S.A.D.D. ("Students Against Driving Drunk"), a program designed to help teenagers help themselves in the fight against drunk driving.

While not condoning underage drinking, the program encourages a healthy exchange between parents and their teenagers on drinking.

Distilled Spirits Council of the United States, Inc.

July 13, 1989

The Honorable John Glenn
United States Senate
342 Dirksen Senate Office Building
Washington, D.C. 20510

Re: June 21, 1989 Senate Governmental Affairs Committee Hearings
Concerning Surgeon General Koop's Recommendations on Drunk Driving

Dear Senator Glenn:

On behalf of the Distilled Spirits Council of the United States, Inc. (DISCUS), thank you again for the opportunity to present before your Committee the views of the distilled spirits industry concerning how to best address the tragedy of drunk driving in our society. During the panel discussion at the June 21, 1989 hearing, we requested the opportunity to submit for the hearing record, evidence disputing the claim that raising the price of alcohol beverages will result in a reduction of drunk driving incidents. This claim is contained in repeated recommendations of the three-day, December, 1988 Workshop on Drunk Driving convened by the United States Surgeon General.

A full review of all research bearing on this question is required. The Surgeon General's Workshop Proceedings cited only two papers in support of the proposition that increased taxes will reduce highway fatalities, one by Saffer and Grossman, and the other by Cook. Other scientists, whose views were not sought by, or included in, the Workshop, came to conclusions different from those of Saffer and Grossman and Cook.

For example, in "Per Capita Alcohol Consumption, Liver Cirrhosis Death Rates, and Drinking and Driving," 8 Journal of Safety Research 112, 114 (September 1976), Dr. Reginald G. Smart concludes:

> The data studied provide no support for the hypotheses tested: There is no association between per capita consumption and mean BAC's in drivers. Also there is no support for the hypotheses that per capita consumption in a given area is related to the proportions of drivers with high BAC's or to the proportions with any alcohol in their blood. The data from cities and counties show no relationship between per capita consumption and alcohol levels in drivers.

* * *

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> [I]t seems most probable that drinking in the general population and drinking in the driving population simply are not significantly related. This suggests that efforts to reduce per capita consumption as a whole would not be very effective in reducing the general level of drinking and driving.

In "The Single Distribution Theory of Alcohol Consumption," 39 Journal of Studies on Alcohol 1643, 1645-46 (1978), Michael K. Taussig remarks:

> A distinct general question about proposition 3* concerns the effectiveness of higher alcohol taxes in reducing heavy alcohol use. To answer this question, economists would require reliable estimates of long-run elasticity values for the relevant population. Elasticity values currently available differ widely because of inadequate data and because of the sensitivity of the results obtained to the alternative methods used to correct for obvious data deficiencies. In any event, elasticity values that have been estimated to date measure the responsiveness of the level of consumption of specific types of (legal) alcoholic beverages to their own prices. They do not measure the elasticity of the responsiveness of absolute alcohol consumption to the price of absolute alcohol, taking full account of the possibility of substitution of cheaper for more expensive forms of absolute alcohol. Also, they do not take into account the possible use of illegal alcohol. Finally, they do not allow for the possibility that the elasticity values may differ for heavy and for average users. For the various reasons suggested above, I suspect that the relevant elasticity value for social policy is quite low, implying that higher taxes would have little effect in reducing heavy use of alcohol unless pushed to extraordinarily high levels. . . .
>
> Significant reductions in alcohol use could, of course, be achieved if government were willing to raise taxes on legal alcohol to whatever level is necessary. This is equivalent to prohibition. Prohibition had a fair trial in the United States and was given up as a failure. . . .

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*Proposition 3 refers to the following proposition, proferred by W. Schmidt and R. E. Popham: "Society should attempt to reduce the social costs of alcohol use (or at least prevent their increase) by regulating the availability of alcohol for the whole population. Such a policy is directed at reducing the mean consumption of alcohol and depends in large part on raising the relative price of alcohol through higher taxes." Id. at 1643.

> I conclude that . . . proposition 3 cannot be accepted as the basis for social policy toward excessive use of alcohol. The unresolved policy problem is to devise effective methods of reducing socially harmful levels of alcohol use. The measures adopted must avoid, as far as possible, the imposition of costs on the great majority of consumers of alcohol, and they must be accepted by the public as fair and necessary in order to be both effective and enforceable.

Taussig further remarks:

> Proposition 3 is directed at regulating average use for the whole population on the grounds that . . . hypothesize[] a positive correlation between average and heavy alcohol use. Implementation of the policy stated in proposition 3 would, however, impose costs on the majority, the light and moderate drinkers, in order to reduce heavy use by a minority. . . . Such a lack of specificity in policy is subject to the criticism that it is unfair and that it unnecessarily distorts consumption choices. For example, suppose that it were firmly established that mean consumption of food was positively correlated with overconsumption of food. Also suppose that it were established that overconsumption of food was the cause of unacceptably high social costs in the form of cardiovascular disease, diabetes and unsightly obesity. According to Schmidt and Popham's proposition 3, then, society should regulate the availability of food for the whole population to control gluttony, perhaps by prohibiting the construction of new supermarkets or by levying special taxes on high-calorie foods such as chocolate. This example should illustrate the absurdity of basing social policy on theoretically empty statistical correlations. Id. at 1644-45.

After reviewing the literature relating to the demand and price elasticities for alcohol beverages, Stanley I. Ornstein, in his article "Control of Alcohol Consumption Through Price Increases," 41 Journal of Studies on Alcohol 807, 817 (1980), concludes:

> The main lesson to be learned from this survey is that demand estimation is a difficult and inexact business. The results are strongly affected by the data and econometric techniques used. One should be cautious before adopting the results of any given study, and especially cautious if such results are to be used as a basis for public policy.

Saffer and Grossman acknowledge that the conclusions in their paper that was cited by the Workshop, "Beer Taxes, the Legal Drinking Age, and Youth Motor

Vehicle Fatalities," XVI Journal of Legal Studies 351 (June 1987), are based on a model of what may happen to motor vehicle deaths among youth if taxes were raised in any of three alternative ways. Moreover, the authors fail to subject their model to a test of their predictions in a period outside the original data set, as one would expect before a hypothesis is incorporated into public policy.

The paper by Cook, "The Effect of Liquor Taxes on Drinking, Cirrhosis, and Auto Accidents," in Alcohol and Public Policy: Beyond the Shadow of Prohibition, pp. 255-285 (Academy Press 1981), which was relied upon by the Workshop, also involves the use of the elasticities that Taussig and Ornstein, for example, find problematic in setting public policy. Cook's paper attempts to correlate changes in state tax rates with changes in consumption, liver cirrhosis mortality, and motor vehicle fatalities. Cook's analysis may be challenged on the following points:

1. He uses overall motor vehicle fatalities as a surrogate (i.e., a substitute) for fatalities caused by drunk drivers. (It is interesting to note that between the years 1982 and 1987, for example, non-alcohol related fatalities rose while drunk driving fatalities declined.)

2. He assumes the following, as a footnote on page 279: "Hence, it would appear that the consumption levels of the 'typical' drinker and the 'heavy' drinker are subject to the same environmental and cultural influences, and/or that drinking patterns are interdependent or 'contagious.'" (Emphasis supplied.)

   Such an assumption is crucial to his inference that, in their purchasing and consumption decisions, heavy drinkers and light or moderate drinkers are similarly affected; his claim that heavy drinkers differ from light or moderate drinkers only by the quantity of alcohol they consume is refuted by a large body of literature based on clinical studies of alcoholics.

3. He assumes a priori that consumption, cirrhosis, and traffic fatalities are dependent on the price of alcohol, without citing evidence from competing investigators, including considering the possibility that these factors are independent of each other or may be influenced by factors he does not identify.

4. His use of the nonparametric sign test, a dichotomous test of the negative or positive relationships between taxes, consumption, cirrhosis deaths, and traffic fatalities, is weak because it fails to utilize or account for a

> host of variables that should influence his conclusions. Such an approach, among other things, fails to explain exceptions to his hypothesis.
>
> For example, Cook's own Table 3 reflects several contradictions to his conclusions. For example, in 25 percent of his observations, consumption increased even though taxes increased; in another 25 percent, fatalities decreased even though consumption increased; and in one-third of his observations, fatalities increased despite a tax increase. Such exceptions must be explained, but Cook chooses to ignore them.

Finally, Cook's own words show the tenuousness of the results of his quasi-experimental approach:

> As in any statistical study, these findings do not offer definitive proof of anything. However, the preponderance of the evidence certainly supports the conjecture that the price of liquor is one determinant of the auto accident and cirrhosis death rates. Id. at 278.

As noted above, Cook asserts that a preponderance of evidence is persuasive, but uses the term "conjecture"--in other words, a guess. More important, notice the caveat contained in the phrase, "the price of liquor is one determinant." (Emphasis supplied.) What determinants has he failed to include in his analysis?

Excerpts from the Davies and Walsh review, Alcohol Problems and Alcohol Control in Europe (Gardner Press 1983), offer examples of experiences in France, Norway, West Germany, Ireland, England, and Israel, and show that higher taxes/prices have no consistent effect on alcohol consumption. Similarly, H. A. Mulford and J. L. Fitzgerald found that per capita alcohol consumption in Iowa nearly doubled during an 18-year period from 1961 to 1979, while heavy-drinking and problem-drinking rates remained constant during the same period. "Changes in the Climate of Attitudes toward Drinking in Iowa, 1961-1979," 44 Journal of Studies on Alcohol 675 (1983). Using the theory of the Workshop, one would have expected an increase in heavy, problem drinking as general consumption increased as a corollary to the theory that a decline in all consumption will result in a decline in heavy, problem drinking.

The studies referenced above do not represent, by any means, the universe of studies on this issue. They do show, however, that a policy of raising the price of alcohol for the claimed reductions in the incidence of drunk driving injuries and other potential alcohol abuse problems has no basis in hard research--or, for that matter, in experience. Those who advocate such a policy mistakenly have relied on flawed, opinionated studies. More important, they have ignored studies that arrived at contrary conclusions.

We believe it is a fundamental public policy inequity to penalize the majority of consumers who use beverage alcohol responsibly for the misuse by a minority. Restrictions on availability penalize all consumers and divert the focus of attention and resources away from those who seriously need specialized help. The abuser--not the user--should be the target of our efforts to combat drunk driving.

Sincerely,

F. A. Meister

F. A. Meister
President/CEO

FAM:LJO:mb

Per Capita Alcohol Consumption, Liver Cirrhosis Death Rates, And Drinking and Driving

Reginald G. Smart

Data from several countries have established a close positive relationship between per capita alcohol consumption and liver cirrhosis death rates. It was hypothesized that positive correlations would also exist between per capita consumption and liver cirrhosis deaths in a given area and: (1) proportion of all drivers with positive BAC; (2) mean BAC of drivers; (3) proportion of drivers with BAC greater than .10%. Data from drinking driver surveys in 5 countries, a Canadian province, and 2 U.S. states were studied. The results showed a significant positive relationship only between per capita consumption and liver cirrhosis death rates and did not support the hypothesis that BAC's in drivers are related to alcohol consumption or liver cirrhosis deaths. Several possible reasons for this result are offered. It appears, however, that drinking in the general population and in the driving population are not significantly positively related. Thus, efforts to reduce per capita consumption may not be effective in reducing the level of drinking and driving.

It has been established for a variety of time periods and for at least eight countries that there is a close positive relationship between per capita alcohol consumption and liver cirrhosis death rates. Further, per capita consumption, rates of drinkers consuming hazardous amounts, and liver cirrhosis mortality are closely related in a variety of countries. (See DeLint & Schmidt, 1971, for a review.) This has generated an expectation that a reduction in per capita consumption would lead to lower rates of alcoholism. The data and theory supporting and conflicting with this approach have been summarized elsewhere (Popham, Schmidt, & DeLint, 1974) and need not be repeated here.

The implications that the correlation of per capita consumption and heavy use may have for the prevention of alcohol-related accidents have not been well explored. The best estimate of alcohol-accident risk comes from studies of drinking and driving in the general population, but until recently few had been made. Smart and Schmidt (1970) analyzed the distributions from five such studies and concluded that the number of impaired drivers in any population would be reduced only if the mean blood alcohol concentration (BAC) of the drinking drivers was reduced. This approach was challenged by O'Neill and Wells (1971) who argued that the distribution depended upon both the variance and the mean. Ekholm (1972) later pointed out that in two Finnish alcohol use surveys where the mean increased markedly the distribution remained log normal. The present paper is not concerned with the character of the drinking driving distribution but

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with how drinking driving relates to per capita consumption in a given area.

Drinking driving studies with nonaccident drivers have been made in many areas in the past five years. These have been made for research purposes and hence probably avoid the problems created by cross-national comparisons of alcohol-related accidents. (See Havard, 1974, for a review of problems.) It would be interesting to know if, in areas where per capita consumption and liver cirrhosis mortality rates are high, the average BAC and the proportions of drivers with a high BAC are also high. If this were the case, reductions in per capita consumption might result in fewer drinking drivers on the road and fewer with high BAC's.

So far, there have been surveys in five countries, in two states and about 20 cities or counties in the United States, and in one Canadian province. This study reports the correlations between mean BAC, proportions of drivers with BAC's over .10 per capita consumption, and liver cirrhosis death rates for some of these areas. Unfortunately, liver cirrhosis death rates are not available for cities; therefore only data for countries, provinces, and states are used.

It was hypothesized that in each area positive correlations would be found between per capita consumption and liver cirrhosis deaths and:

1. The proportion of all drivers tested having a positive BAC.
2. The mean BAC among all those with positive levels.
3. The proportion of total drivers tested having a high BAC (i.e. over .10%).[1]

METHOD

Data for the drinking driving surveys were drawn from reviews by Carr, Borkenstein, Perrine, Van Berkom, and Voas (1974) and by Stroh (1972). The various surveys involved France, Norway, the Netherlands, the United States as a whole, the province of Alberta, and the two states of South Dakota and Maine. The United States data were drawn from averages of the 11 ASAP surveys reported by Carr et al. (1974), about which no question was raised concerning sampling biases or testing errors.

Summaries of the sampling methods used are given by Carr et al. (1974) and Stroh (1972) and will not be duplicated here. Most of the country/state surveys appeared to involve large samples, several days of the week, and a variety of sites, but somewhat different methods of sampling. The effects of the different sampling methods on the results are difficult to predict.

The ASAP surveys used were done with large samples (N=500 to 800), usually on one day of the week and apparently with similar testing methodology. Further details about the sampling methods used are sketchy except that in six of the surveys serious questions were raised about the accuracy of the data collected. These surveys have been left out of the present analyses. In this study the survey data collected prior to the ASAP program have been used, rather than the data collected afterward.

Comparable data on per capita consumption and liver cirrhosis deaths were collected from a variety of official government statistics, United Nations reports, and other reports.[2]

RESULTS

The data for the countries and states surveyed are presented in Table 1. Spearman rank order correlations were performed and the results are also shown in Table 1. As expected from earlier epidemiological studies, the correlation between per capita consumption and liver cirrhosis rates is high and positive (r = .98, $p<$ .01). Contrary to expectation, there is no significant correlation between mean BAC and per capita consumption. There is no significant correlation between liver cirrhosis rates and mean BAC. And, no significant correlation exists between per

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[1] The BAC of .10% was chosen because it represents an outside legal limit in most areas and because it proved to be a convenient level given the various groupings of the data in different studies.

[2] These are chiefly the Statistical Abstracts of the United States, The United Nations Demographic Yearbooks, and the Dutch Distillers Reports for the relevant years.

TABLE 1
DRINKING-DRIVING DATA, PER CAPITA CONSUMPTION, AND LIVER CIRRHOSIS DEATHS IN COUNTRIES AND STATES WITH DRINKING DRIVER SURVEYS

AREA AND YEAR	PER CAPITA CONSUMPTION, DRINKING AGE POPULATION (LITERS)	MEAN BAC, NONACCIDENT DRIVERS WITH ALCOHOL IN BLOOD	% OF SAMPLE OVER .10 BAC	% OF SAMPLE WITH SOME ALCOHOL IN BLOOD	LIVER CIRRHOSIS DEATH RATE PER 100,000
	A	B	C	D	E
France (1969)	16.90 (1)[a]	.035 (8)	1.8 (7)	52.5 (1)	35.0 (1)
United States (1971)	9.95 (2)	.152 (1)	4.7 (3)	30.4 (3)	15.5 (2)
Maine (1971)	9.84 (3)	.054 (5)	3.6 (6)	23.9 (7)	13.8 (3)
Alberta (1971)	9.64 (4)	.053 (6.5)	4.2 (5)	26.0 (6)	7.1 (5)
South Dakota (1971)	8.18 (5)	.062 (3)	7.0 (2)	30.3 (4)	11.0 (4)
Netherlands (1971)	6.20 (6)	.057 (4)	7.3 (1)	34.0 (2)	4.2 (6)
Netherlands (1970)	5.60 (7)	.053 (6.5)	4.5 (4)	27.0 (5)	4.0 (7.5)
Norway (1971)	3.70 (8)	.084 (2)	0.8 (8)	2.8 (8)	4.0 (7.5)

Note.—The following are Spearman rank order correlations for the data by columns: A & B = −.24, NS; A & C = −.07, NS; A & D = .50, NS; A & E = .98, $p<.01$; B & C = .28, NS; B & D = −.19, NS; B & E = −.10, NS; C & D = .48, NS; C & E = −.04, NS; D & E = .52, NS.

[a] Rank order given in parentheses.

capita consumption or liver cirrhosis rates and proportions of drivers over .10% BAC. Alcohol levels do not relate to the proportions of drivers tested with some alcohol in the blood. It appears that for the countries and states studied, mean BAC's in nonaccident drivers do not relate to per capita consumption of alcohol.

DISCUSSION

The data studied provide no support for the hypotheses tested: There is no association between per capita consumption and mean BAC's in drivers. Also there is no support for the hypotheses that per capita consumption in a given area is related to the proportions of drivers with high BAC's or to the proportions with any alcohol in their blood. The data from cities and counties show no relationship between per capita consumption and alcohol levels in drivers. It would be interesting to compare per capita consumption with alcohol-related accidents in various countries but official records of such accidents have been much criticized for their poor reliability (Havard, 1974).

Failure to support a reasonable hypothesis is never easy to explain. A variety of possible explanations can be suggested, none of them totally satisfactory. One would be that the statistical series are too short or too biased to provide an adequate test of the hypothesis. Since more surveys are now being done, it may be possible to add to the series soon.

Other possible explanations for the negative results could be:

1. In the countries where per capita consumption is highest (e.g. France), many drinking drivers may have lost their licenses or cars and hence are not found on the road.
2. In high consumption countries, people may be more cautious about driving after drinking than formerly thought, compared to countries where drinking is more moderate.
3. High consumption areas may have stricter laws or better enforcement that discourages driving after drinking.

None of these explanations can be given any real support at present, and it seems most probable that drinking in the general population and drinking in the driving population simply are not significantly related. This suggests that efforts to reduce per capita consumption as a whole would not be very effective in reducing the general level of drinking and driving.

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Journal of Studies on Alcohol, Vol. 39, No. 9, 1978

COMMENTS

Comment on "The Single Distribution Theory of Alcohol Consumption"

Michael K. Taussig[1]

I shall comment on the Parker and Harman (1) and Schmidt and Popham (2) papers from the standpoint of an economist interested in the analysis of public policy issues. It is convenient to begin with a restatement of the three propositions given by Schmidt and Popham to summarize the single distribution theory as it applies to a prevention program:

1. The proportion of heavy users and the mean consumption of alcohol are positively correlated in any population.

2. Heavy use of alcohol causes high social costs. If proposition 1 holds, the social costs of alcohol use are positively correlated with mean consumption of alcohol.

3. Society should attempt to reduce the social costs of alcohol use (or at least prevent their increase) by regulating the availability of alcohol for the whole population. Such a policy is directed at reducing the mean consumption of alcohol and depends in large part on raising the relative price of alcohol through higher taxes. Proposition 3 is believed to follow from the validity of propositions 1 and 2.

Most of my discussion is concerned with proposition 3. Proposition 2 is a matter of human physiology beyond my competence. Proposition 1, a heavily qualified version of the original Ledermann hypothesis, is taken for this discussion as a tentative working hypothesis. It has some plausibility, especially as mean consumption levels rise relative to the level of use defined to be heavy use. As a basis for social policy, proposition 1 is weak because it lacks a theoretical foundation and sufficient, relevant empirical support. The evidence discussed in the two papers is certainly far from definitive in testing the hypothesis. For the purposes of discussion, however, I take both propositions 1 and 2 as given and examine their alleged policy implications, as contained in proposition 3.

The central point of this comment is that, even if propositions 1 and

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2 are accepted in full, it does not necessarily follow that governments should adopt a policy of regulating alcohol availability for all through higher alcohol taxes or other methods. Before agreeing to such a policy, economists would require answers to the following questions: (*1*) Are the social benefits expected from such a policy clearly greater than the social costs? (*2*) Even if the first question is answered in the affirmative, is it reasonably certain that no less costly policy alternative exists to achieve the same end? (*3*) If the policy of regulating alcohol use is to be carried out effectively, does it entail measures that are generally perceived to be fair and equitable?

None of these three questions can be answered satisfactorily on the basis of available evidence. Schmidt and Popham appear to regard the answer to the first question as self-evident on the basis of the benefits they envision from reducing the high social costs of heavy alcohol use. They have nothing to say, however, about the potentially high social costs of a policy regulating alcohol use for the whole population.

The experience of Prohibition in the United States and the current prohibition of drugs such as heroin suggest that the social costs of effective policies to regulate consumption of alcohol and other euphoria-producing substances are extremely high. Before accepting such costs, economists would require good evidence that the benefits of reduced alcohol consumption are worth the costs and that no feasible, less costly alternative policies exist. Also, the history of Prohibition suggests that effective policies to regulate alcohol consumption for the whole population would be widely regarded as unfair and as justifications for illegal production and sale. The consequences of such widely held attitudes might include increased rates of crime of various sorts and of corruption of public officials. The point, in short, is that propositions 1 and 2 by themselves do not make a case for proposition 3.

As an economist, I react negatively to proposition 3 because of its lack of specificity. According to proposition 2, the social costs of alcohol use arise from heavy use, not from light or moderate use. Proposition 3 is directed at regulating average use for the whole population on the grounds that proposition 1 hypothesizes a positive correlation between average and heavy alcohol use. Implementation of the policy stated in proposition 3 would, however, impose costs on the majority, the light and moderate drinkers, in order to reduce heavy use by a minority. The low-income steel worker who enjoys a few glasses of beer after work would be expected to pay more for his socially harmless drinking in order to deter the heavy drinker. Such a lack of specificity in policy is subject to the criticism that it is unfair and that it unnecessarily distorts consumption choices. For example, suppose that it were firmly established that mean consumption of food was positively correlated with overconsumption of food. Also suppose that it were established that overconsumption of food was the cause of unacceptably high social costs in the form of cardiovascular disease, diabetes and unsightly obesity. According to Schmidt and Popham's proposition 3, then, society should regulate the availability of food for the whole population to control gluttony, perhaps by prohibiting the construction of new supermarkets or by levying special taxes on high-calorie foods such as chocolate. This example should illustrate the absurdity of basing social policy on theoretically empty statistical correlations. To summarize, if proposition 2 is valid, social policy measures should be directed specifically at deterrence of heavy alcohol use, whether or not proposition 1 stands up to more rigorous empirical testing.

A distinct general question about proposition 3 concerns the effectiveness of higher alcohol taxes in reducing heavy alcohol use. To answer this question, economists would require reliable estimates of long-run elasticity values for the relevant population. Elasticity values currently available differ widely because of inadequate data and because of the sensitivity of the results obtained to the alternative methods used to correct for obvious data deficiencies. In any event, elasticity values that have been estimated to date measure the responsiveness of the level of consumption of specific types of (legal) alcoholic beverages to their own prices. They do not measure the elasticity of the responsiveness of absolute alcohol consumption to the price of absolute alcohol, taking full account of the possibility of substitution of cheaper for more expensive forms of absolute alcohol. Also, they do not take into account the possible use of illegal alcohol. Finally, they do not allow for the possibility that the elasticity values may differ for heavy and for average users. For the various reasons suggested above, I suspect that the relevant elasticity value for social policy is quite low, implying that higher taxes would have little effect in reducing heavy use of alcohol unless pushed to extraordinarily high levels. Schmidt and Popham suggest the fine-tuning of alcohol tax increases to avert the substitution of relatively cheap for more expensive forms of absolute alcohol. Their brief mention of this issue does not do justice to the complex difficulties involved in implementing an effectively coordinated set of alcohol taxes. Their modest proposal that alcohol taxes be adjusted to make alcohol prices go up at the same rate as personal disposable incomes would not necessarily contain mean or heavy alcohol consumption significantly. For plausible values of absolute alcohol, income and price elasticities, mean consumption as well as the proportion of heavy users could rise at a barely reduced rate, despite the implementation of their proposal.

Significant reductions in alcohol use could, of course, be achieved if government were willing to raise taxes on legal alcohol to whatever level is necessary. This is equivalent to prohibition. Prohibition had a fair trial in the United States and was given up as a failure. It might also be noted that effective regulation of alcohol consumption might well cause large numbers of users to turn to alternative euphoria-producing substances. Such a result would not necessarily reduce the social costs of combined alcohol and drug use. The dilemma posed for those who set social policy is that any measures that would be effective in reducing the mean consumption of alcohol would also likely result in unacceptably high social costs.

I conclude that Schmidt and Popham's proposition 3 cannot be accepted as the basis for social policy toward excessive use of alcohol. The unresolved policy problem is to devise effective methods of reducing socially harmful levels of alcohol use. The measures adopted must avoid, as far as possible, the imposition of costs on the great majority of consumers of alcohol, and they must be accepted by the public as fair and necessary in order to be both effective and enforceable.

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Parker and Harman (1) correctly point out that with the publication of Bruun et al.'s *Alcohol Control Policies* (2) the question of alcohol availability has once again been placed on the agenda for scientific and political discussion. While Parker and Harman describe the National Institute on Alcohol Abuse and Alcoholism's interest in a broadened concept of prevention targets and strategies, their paper focuses on only one component of the institute's prevention program—namely, the institute's interest in studying the impact of the availability of alcohol upon the prevalence of alcohol problems (both medical and social).

The institute has adopted the public health model as a basic framework for categorizing alcohol problems and describing prevention strategies. Thus, we are concerned with the host (the individual drinker), the agent (alcohol, its availability, price, etc.) and the environment (the social, cultural, and legal structure of a given community in which drinking and drunkenness occurs). The institute has begun to sponsor research in each of these three areas.

We are attempting to learn why some people in certain life situations are susceptible to certain alcohol problems while others are not, how individuals and groups develop various drinking patterns, and what factors are critical to influencing individuals to change negative patterns or maintain positive patterns. Though no studies are currently funded in this area, the institute is also interested in studying the impact of changes in the availability of alcohol itself. This might include such strategies as reducing the proof of an alcoholic beverage, raising the

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Control of Alcohol Consumption Through Price Increases

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SUMMARY. *A review of the literature indicates that beer demand tends to be price inelastic, distilled spirits price elastic and wine indeterminate.*

ACCORDING TO the long-debated Ledermann or single-distribution model of alcohol consumption, there is a fixed relationship between a population's mean consumption and the incidence of heavy drinking. Thus, changes in the mean will lead to changes in the percentage of a population who are heavy drinkers. Numerous proposals for changing mean consumption have been made over the years, including restricting availability by limiting hours of sale and the number of retail outlets, restricting advertising or banning it entirely and raising the legal alcohol-purchasing age and prices. This article discusses the efficacy of the last technique, raising prices.

The central issue is whether control of consumption can be achieved through government-administered price increases. The success of such a policy depends on the relative changes of many variables, but the chief empirical question is whether the demand for a given alcoholic beverage is relatively sensitive (price elastic) or insensitive (price inelastic) to price changes. If the demand for a given beverage is strongly price inelastic, price increases through, for example, increases in excise taxes, holding all other variables

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constant, will (*1*) have only a slight diminishing effect on consumption, (*2*) increase the percentage of personal disposable income allocated to the beverage and (*3*) tend to increase government tax revenues. If, on the other hand, demand is strongly price elastic, price increases will have the opposite effects and, most important, consumption will decline by an amount greater than the percentage increase in average prices.

A recent debate on the single-distribution model between Parker and Harman (1) and Schmidt and Popham (2) dealt with the main issues of controversy, drawing selectively from a wide variety of empirical studies. On the specific issue of price elasticity the debate floundered, drawing on very limited evidence. Parker and Harman argued that (*1*) income rather than price is the main determinant of demand, (*2*) demand for beer and spirits is price inelastic, as shown by Lau (3) and Lidman (4), so consumption would be little affected by price increases, and (*3*) the single-distribution model is theoretically incomplete since price elasticity may differ across types of drinkers, with heavy drinkers likely to have inelastic demand curves while light and moderate drinkers are most likely to have elastic demand curves.

Schmidt and Popham (2) countered by stating that heavy drinkers have elastic demand curves as shown by the strong inverse correlation between price and liver cirrhosis mortality found in many studies. Conceding that the demand for beer may be inelastic, they maintained that Parker and Harman missed a major point in Lau's (3) study, namely, "that the three major classes of beverages may serve as substitutes for one another," so that cross-price elasticities must also be considered.[2] For example, if beer and spirits are substitutes (something Lau did not find), then an increase in the price of spirits will lead to an increase in the quantity of beer demanded. They argued that appropriate price changes in both beverages would prevent this shift to greater beer consumption.

There is a large body of studies on demand estimation of alcoholic beverages which was apparently overlooked by these and possibly other alcohol researchers. A survey of these studies shows that definitive conclusions on price elasticity are not as unambiguous as

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[2] On this point Schmidt and Popham (2) were clearly in error. Lau (3) stated unequivocally there was no strong evidence for arguing substitution between any of the beverages. The cross-elasticity terms in his regression results were generally insignificant and the signs were inconsistent across the beverages.

Parker and Harman and Schmidt and Popham suggest. In fact, their reliance on a few studies led both sets of authors into erroneous conclusions. The purpose of this paper is to present much of this evidence on price, income and cross-price elasticities to see whether the weight of the evidence indicates that beer, wine and spirits are price elastic, inelastic or unit elastic, and whether they are substitutes, complements or unrelated in consumption.

Hypotheses

According to economic theory, quantity demanded is inversely related to price. Hence, it is expected that price elasticity will be negative and statistically significant. With regard to the magnitude of price elasticity, a-priori hypotheses are less clear. Price elasticity is in large part a function of the availability of close substitutes, i.e., the more good substitutes there are, the more demand is price elastic. For example, the demand for alcoholic beverages in total is expected to be highly price inelastic since there are no close substitutes for alcoholic beverages.[3] At the opposite end of the spectrum, price elasticity of demand for a particular brand, say Budweiser beer, is expected to be highly price elastic since there are many other beers that are close substitutes. The price elasticity of demand for beer, wine and distilled spirits is thus largely a function of how substitutable they are for one another. In principle they are substitutes and thus price elastic, or less inelastic than the demand for total alcoholic beverages. On the other hand, historical tax levels suggest they are all price inelastic. Each beverage has been heavily taxed, in particular wine and spirits, in many countries for centuries. To the extent governments are predominantly interested in maximizing revenues, it is unlikely they would choose to tax high price-elastic goods, since tax increases on such goods would tend to reduce total tax revenues.[4] That the U.S. tax rate is highest on distilled spirits and lowest on beer suggests that distilled spirits have the lowest and beer the highest price elasticity of the three main alcoholic beverages. Alternatively, it may be more politically feasible to

[3] Some may claim that drugs are close substitutes, but with no knowledge of the extent of their substitutability or complementarity, I assume that use of drugs as a substitute for alcohol is limited to a small minority.

[4] This is an oversimplification of the relationship between price elasticity and tax revenue. An equation for calculating tax elasticity with respect to unit taxes (ignoring tax effects on other goods) can be derived as follows: $e_t = 1 + e_p\,(t/p + t)$, where e_t is tax revenue elasticity with respect to the tax rate, e_p is price elasticity, t is tax per unit and p is price net of taxes. This shows that e_t is positive whenever e_p is unit elastic or inelastic. Highly price-elastic goods with large tax rates will tend to have negative tax elasticities. As an example, assume that excise tax accounts for 40% of final price for distilled spirits in the U.S.: as long as price elasticity is greater than 2.5, an increase in the tax rate will reduce tax revenues.

increase tax revenues by raising taxes on higher-alcohol-content beverages, because of greater moral condemnation of strong drink. Whether each beverage is price inelastic is unclear, but the higher the tax as a proportion of selling price, the lower must be price elasticity for revenue-maximizing governments. In short, it is not clear a priori whether the individual demand curves for these beverages are price elastic, unit elastic or inelastic, although given their high rates of taxation they may well be inelastic.

A further confounding of the issue is that price elasticity varies along a straight-line demand curve. Thus, high taxes may push a beverage into the elastic portion of its demand curve. In addition, a distinction must be made between short- and long-run demand curves. Price elasticity is higher in the long-run because more information is available to consumers which enhances the likelihood of their finding substitutes. It is entirely consistent to find short-run price inelasticity and long-run price elasticity.

The lack of clear a-priori expectation also applies to cross-price elasticities. Such elasticities indicate the extent of substitution or complementarity between products. Cross-price elasticities are expected to be either positive and significant, reflecting substitutability, or insignificant. They are not expected to be negative and significant, reflecting complementarity.[5]

Income elasticities are expected to be positive and significant, demonstrating that alcoholic beverages are normal goods; that is, more is purchased as income rises. No a-priori predictions on whether income is elastic or inelastic can be made.

RESULTS

An attempt to identify a range of "true" elasticities by a comparison of diverse studies is clearly risky if not outright erroneous. The studies differ in a number of crucial factors which are not held constant, such as differences in time periods and in cultural and social attitudes toward drinking in the countries in question. Moreover, econometric techniques lead to differences in results owing to differences in model specification, estimation method and quality of the data analyzed.

On the other hand, it seems reasonable to assume some similarity in results across certain studies for two reasons. First, economic goods which generate large tax revenues are generally price inelastic—alcoholic beverages have been heavily taxed and have been major sources of public revenues in various countries for centuries. This suggests that price inelasticity will be found in studies of various countries. Second, the effects on consumers of alcoholic beverages or the reasons they are consumed (for example, to facilitate social interaction, to aid in relaxation or to suppress emotional pain, peer-group pressure) should be similar in all countries of more or less similar socioeconomic development. For both of these reasons it does not seem unreasonable to expect broadly similar results across certain studies, such as those of the United States and Canada; results will differ due to econometric technique, time periods, etc., but there should be a general consensus consistent with a-priori expectations. Thus, despite the obvious dangers, I present the results (Table 1) and discuss the findings within the context of expecting similar results between studies.

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[5] Although several alcoholic beverages are commonly served in social settings, they generally are not consumed in a complementary fashion. For example, if both distilled spirits and wine are served at parties and in restaurants, a price increase in distilled spirits is unlikely to lead to a fall in the demand for wine.

Beer

Beer price elasticities in the United States range from an estimate of approximately 0 by Horowitz and Horowitz (5) for the 1950s to Comanor and Wilson's (6) long-run estimate of −1.39 for the 1950s and 1960s. Both studies have serious econometric problems and can be safely dismissed. Horowitz and Horowitz used excise taxes as a proxy for beer prices, which introduces large measurement error, and Comanor and Wilson's data and methodology have been soundly criticized by Grabowski (7). The remaining estimates range from —0.33 to —0.89, and all are statistically significant. Replication of Norman's (8) results, correcting for an error in his data and using his full model, yielded a price elasticity of about −0.40 and an income elasticity of 0.10.[6] Thus, Norman's estimate of −0.87 is biased upward leaving Hogarty and Elzinga (9) at the top of the range. The results of Johnson and Oksanen (10, 11) for Canada, which should be close to U.S. estimates owing to similar sociodemographic, cultural and economic characteristics, show significantly inelastic estimates at the lower end of the range of U.S. estimates. This suggests that beer price elasticity is about −0.3 to −0.4 in the U.S. and Canada. Results from other countries also

[6] A more complete discussion of this test and all other studies in the tables is in ORNSTEIN, S. I. and LEVY, D. T. Price and income elasticities of demand for alcoholic beverages. [Unpublished research report, June 1979.]

TABLE 1.—*Price and Income Elasticities of Beer, Wine and Distilled Spirits*

	Place and Time	*Method*	PRICE			INCOME		
			Beer	*Wine*	*Distilled Spirits*	*Beer*	*Wine*	*Distilled Spirits*
Niskanen (13)	U.S.A., 1934–54	Simultaneous equations (3-stage least squares, linear)	−0.50^{a,b}	−1.59^{a}	−2.027^{a,b}	−0.33^{a,b}	1.45^{a}	0.91^{a,b}
		Ordinary least squares (linear)	−0.33^{a,b}	−0.35	−0.93^{a}	−0.27^{a,b}	0.80^{a}	0.89^{a}
Horowitz & Horowitz (5)	U.S.A., 1949–61 (cross-section by state)	Simultaneous equation; indirect least squares (linear)	0.00					
Hogarty & Elzinga (9)	U.S.A., 1956–59 and by states	Ordinary least squares (log)	−0.89^{a}			0.43^{a,b}		
Norman (8)	U.S.A., 1946–70	Ordinary least squares (log)	−0.87^{a}			0.35^{a,b}		
Comanor & Wilson (6)	U.S.A., 1947–64	Ordinary least squares	(SR)^{c} −0.56^{a}	−0.68^{a,b}	−0.25	−0.18	0.41	0.18
			(LR)^{c} −1.39	−0.84	−0.30	−0.46	0.50	0.21
Stone (14)	U.K., 1920–45	Ordinary least squares (log)	−0.73		−0.72	0.14		0.54
Stone (20)	U.K., 1920–48	Ordinary least squares (log)	−0.69^{a,b}	−1.17^{a}	−0.57^{a,b}		0.98^{a}	0.60^{a,b}
Prest (21)	U.K., 1870–1938	Ordinary least squares (log)	−0.66^{a,b}		−0.57^{a}	0.23^{a,b}		0.70^{a}
Nyberg (15)^{d}	Finland, 1949–62	Static model	−0.49	−0.83	Vodka, −0.13	0.22	0.97	0.42
					Other, −0.95			1.30
		Dynamic model	(SR) 0.003	−0.99	Vodka, −0.60	0.19	0.39	0.25
					Other, −1.10			0.49
			(LR) 0.01	−3.28	Vodka, −2.00	0.64	1.29	0.84
					Other, −3.65			1.68
Walsh & Walsh (22)^{e}	Ireland, 1953–67	Ordinary least squares (log & linear)	−0.17		−0.64	0.79^{a}		2.04^{a}
Lau (3)^{e}	Canada, 1949–69	Ordinary least squares (log & linear)	−0.03	−1.65^{a,b}	−1.45^{a,b}	0.20	1.43^{a,b}	0.68^{a,b}
Johnson & Oksanen (11)	Canada, 1955–71	Ordinary least squares (linear)	(SR) −0.22^{a,b}	−0.50^{a,b}	−0.91^{a,b}	0.04	−0.01^{b}	0.23^{a,b}
			(LR) −0.38	−1.30	−1.60	0.06	−0.08	0.40
		(with error components analysis)	(SR) −0.27^{a,b}	−0.67^{a,b}	−1.14^{a,b}	0.00^{b}	0.04^{b}	0.11^{a,b}
			(LR) −0.33	−1.78	−1.77	0.02	0.04	0.17

TABLE 1—*continued*

			PRICE			INCOME		
	Place and Time	*Method*	*Beer*	*Wine*	*Distilled Spirits*	*Beer*	*Wine*	*Distilled Spirits*
Huitfeldt & Jorner (16)[f]	Sweden, 1963–68			−0.9	Vodka, −0.8 Other, −3.2			
Labys (12)	France, 1954–71	Ordinary least squares (log)		−0.06[b]			−0.15[a,b]	
	Italy, 1954–71			−1.00[a]			0.28[a,b]	
	Portugal, 1954–71			−0.68			0.05[b]	
	Spain, 1954–71			−0.37[a,b]			0.14[a,b]	
	F.R. Germany, 1954–71			−0.38[a,b]			0.51[a,b]	
	U.S.A. (domestic price), 1954–71			−0.44			2.35[a,b]	
	U.S.A. (import price), 1954–71			−1.65[a]			3.34[a,b]	
Miller & Roberts[g]	Australia, 1954–71			−1.0 to −3.2				
E.E.C.[g]	Belgium, 1954–71			−1.14			1.81	
Malmquist (24)	Sweden, 1923–39	Ordinary least squares (log)			−0.37			0.30
Simon[h]	U.S.A., 1955–61	Calculation of arc elasticities			−0.79			
Wales (18)	U.S.A., 1960	Ordinary least squares (linear)			0.084			1.09[a]
Smith (19)	U.S.A., 1970	Ordinary least squares; seemingly unrelated regressions (linear)			−1.95[a]			1.78[a]
Lidman (4)	California, 1953–75	Ordinary least squares (log & linear)			0.02[b]			1.017[a]
Barsby & Marshall (23)	U.S.A., 1970–75	Ordinary least squares (log)			−1.06[a]			1.23[a]

[a] Significantly different from 0, $p < .05$. [b] Significantly different from 1, $p < .05$.

[c] (SR) = short-run; (LR) = long-run.

[d] As reported by Lau (3); test statistic not provided.

[e] Price elasticity estimates in these studies are not comparable to those of others since the own-price variable is included twice (alone and in the substitute price variable) in the estimating equation.

[f] As reported by Lidman (4); test statistic not provided.

[g] As reported by Labys (12); test statistic not provided.

[h] Simon used a special arc-elasticity formula based on the definition of price elasticity.

suggest inelasticity, although not quite as marked. Thus, a 10% rise in beer price, holding all other variables constant, would result in roughly a 3 to 4% decline in beer consumption.

Income elasticities for beer are consistently quite low in both U.S. and foreign studies, and not always statistically significant. Some studies show that beer is an inferior good, contrary to expectations. Other studies find that income is insignificantly related to consumption. Based on these results we can make no judgment on the income elasticity for beer in the U.S., although it is most likely inelastic. Thus, increases in income are likely to be associated with less than proportional increases in beer consumption. Increased income may induce consumers to switch to higher-priced beers, domestic premium and foreign imports, without materially increasing total consumption.

Wine

U.S. estimates of wine price elasticities are few and range from −0.44 by Labys (12) to −1.59 by Niskanen (13). None of the results are robust. Labys's result is statistically insignificant, while Niskanen stated that he had little faith in his wine demand results. Comanor and Wilson's (6) results are also highly suspect. Estimates for foreign countries offer little additional insight. The short-run and static elasticities found by Stone (14), Nyberg (15) and Huitfeldt and Jorner (16) suggest a price elasticity of around −1.0, but Johnson and Oksanen's (11) short-run results suggest a price elasticity of approximately −0.6. Clearly, the results show an extremely wide variation across all countries, which may be an accurate reflection of true conditions, for the role of wine in France and Italy is certainly vastly different from its role in the U.S. and Canada. I suspect, however, that much of the difference in results is due to econometric problems and poor data. A good illustration of this is in the estimates of Labys: according to his results, wine is highly price inelastic in France but unit elastic in Italy. Since the per-capita consumption of wine is similar in both countries, these results are hard to believe. As a consequence, no consensus on wine price elasticity is possible.

In similar fashion, wine income elasticity estimates present the same diversity in results, both within the U.S. and across countries. The results are, again, too divergent to permit any conclusions.

Distilled Spirits

The U.S. price elasticities for distilled spirits range from 0.02 by Lidman (17) to −2.027 by Niskanen (13). None of the studies finding low elasticity (4, 6, 17, 18) are econometrically convincing and, moreover, their price elasticity estimates were all statistically insignificant, an implausible finding. The studies of Smith (19) and Niskanen (13) were the most complete econometrically and their findings suggest either unitary or price elastic demand. The 1977 study of Johnson and Oksanen (11) also shows price elasticity. In short, these data suggest a price elasticity between −1.0 and −2.0 for the U.S., which is inconsistent with my earlier expectation of inelastic demand for spirits because of their extremely high rate of taxation. One possible explanation for this result is that the demand curve for distilled spirits is essentially a straight line and taxes have pushed prices into the elastic region of the demand curve. Since there has been little variation in spirits' price over time, the inelastic region on the demand curve is never experienced. Why this should not be the case for beer and wine as well is not clear, except that the brewers and vintners may be politically stronger than the distillers. Alternatively, tax revenue can increase with increased taxes for price elastic goods.[4] Thus, price elasticity is not incompatible with maximization of government revenue.

Studies of distilled spirits in European countries suggest price inelasticity. Why demand would be price elastic in the U.S. and Canada and inelastic in other countries is unknown.

Income elasticities for distilled spirits show no consistent results across studies. In the U.S. significant inelasticities range from the 0.61 of Niskanen (13) to the 1.75 of Smith (19). Johnson and Oksanen (10) find far lower income elasticities for Canada; their 1977 study indicates that income has slight effect on consumption, a rather implausible result for distilled spirits. In short, there is no consensus possible with regard to income elasticities for distilled spirits.

Cross-Price Elasticities (Table 2)

The best cross-price elasticity studies are those of Johnson and Oksanen (10) and Niskanen (13). The results show that elasticities are inconsistent both within and across the two studies. For example, Johnson and Oksanen found that beer was a substitute for wine, but

TABLE 2.—*Estimates of Cross-Price Elasticities*

	Beer on Wine[a]	*Wine on Beer*	*Beer on Spirits*	*Spirits on Beer*	*Wine on Spirits*	*Spirits on Wine*
Malmquist (24)					−0.64 to −1.01	
Walsh & Walsh (22)[b]			−0.21 to −0.33	0.19 to 0.22		
Lau (3)[b]		−0.73 to −0.86	1.27	1.00[c]	−0.31 to 0.19	
Johnson & Oksanen (10)	−0.03	0.23[c]	−0.11	−0.13	0.14	0.21[c]
Johnson & Oksanen (11)	−	+[c]	−[c]	−	+	+
Niskanen (13)						
3-stage least squares	−0.39	2.55[c]	0.36	0.29	1.28[c]	−0.05
Ordinary least squares	−0.44[c]	0.24	0.42	0.65[c]	−0.54	0.41
Lidman (17)				0.28		

[a] The cross elasticities are classified by dependent–independent variables; the first beverage listed is the dependent variable and the second the independent variable.

[b] These studies use relative price variables, e.g., beer price divided by spirit price, in log form. The ratios were not deflated by a consumer price index and *t* statistics could not be calculated.

[c] Significantly different from 0, $P < .05$.

wine was not a substitute for beer. Niskanen found a similar result for wine and beer and an analogous inconsistency between wine and spirits. Johnson and Oksanen found that beer and spirits are complements, whereas Niskanen found that they are substitutes. Indeed, the signs of many of the elasticities in Table 2 indicate that alcoholic beverages are complements, a seemingly implausible result for most alcoholic beverages. In general, there is no consistency in findings across studies, which suggests there is little substitutability between beer, wine and distilled spirits.

CONCLUSIONS

The controversy between those who argue that price elasticity estimates do not support the use of price as a control tool and those who argue the opposite is not resolved by this survey. There is no support for Parker and Harman's conclusion that income effects dominate price effects, nor is there evidence of inelastic demand for distilled spirits in the U.S. Schmidt and Popham's conviction that consumption is sensitive to price changes is supported, but the sensitivity varies across beverages, and how effective price changes would be in reducing heavy drinking remains untested. Moreover, their claim that inelasticity is irrelevant because of substitutability between beer, wine and distilled spirits receives no support.

For those who believe in the single-distribution model, the main question of interest is the magnitude of a decline in mean per-capita consumption as a result of an increase in price. In the case of the

U.S., the most that can be said, based on prior studies, is that (*1*) an increase in the price of beer, *ceteris paribus*, will likely lead to a substantially less than proportional decline in beer consumption, (*2*) an increase in the price of distilled spirits, *ceteris paribus*, will likely lead to a proportional or somewhat greater than proportional decline in distilled spirits consumption, and (*3*) in the case of wine, the results are too unreliable to offer any conclusions.

The main lesson to be learned from this survey is that demand estimation is a difficult and inexact business. The results are strongly affected by the data and econometric techniques used. One should be cautious before adopting the results of any given study, and especially cautious if such results are to be used as a basis for public policy.

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Safety Information

National Transportation Safety Board
Washington, D.C. 20594

Statement for the Record of the
National Transportation Safety Board
for the
Governmental Affairs Committee
United States Senate
Regarding the Coordination and Implementation of
Alcohol Abuse Prevention Policies
Within the Federal Government

June 15, 1989

Mr. Chairman, we appreciate this opportunity to submit testimony for the record on National Transportation Safety Board efforts toward alcohol abuse prevention in transportation.

As you know, the National Transportation Safety Board is an independent accident investigation agency. Our mission is to determine the "probable cause" of transportation accidents and to formulate safety recommendations to improve transportation safety.

We have no operational programs to reduce substance abuse in transportation other than the credibility of our investigations, the appropriateness of our recommendations, the effectiveness of our advocacy, and moral suasion. We cannot offer funds, training materials, research or other activities common to other government agencies. The safety recommendation is the Board's end product. In many respects, however, we have been successful.

In 1982, the Safety Board began the national debate on youth safety by recommending to the Governors of 35 states and the Mayor of the District of Columbia that they "Raise the minimum legal age for drinking or purchasing all alcoholic beverages to 21 years of age." The Board testified before many legislatures considering enactment of age 21 legislation, and we provided technical assistance to many legislators to aid their efforts. As a result of Congressional action and efforts such as ours, all 50 states and the District of Columbia now have enacted the 21 minimum drinking age.

The proportion of drivers 15 to 19 years old who were drunk and involved in fatal crashes dropped from 28 percent in 1982 to 19 percent in 1987 and to 18.6 percent in 1988. This measure has saved an estimated 5,000 lives since 1982.

Alcohol and other drug abuse in transportation is an issue of great concern to the Safety Board. We have seen the effects of impairing substances not only on our highways, but also in aviation, rail, and marine accidents. In aviation, we have recommended that the Federal Aviation Administration (FAA) encourage the states to enact flying while intoxicated laws. Thirty four states currently prohibit flying while intoxicated, while nine states have enacted more comprehensive laws. We also asked the FAA to check the National Driver Register to see if active pilots were illegally concealing DUI convictions. We are pleased that the FAA recently has begun to use this important source of information.

The Safety Board believes that the FAA-permitted blood alcohol concentration of 0.04 percent for pilots is too permissive since research shows performance impairment at lower levels. Other modes of transportation have followed the FAA lead in permitting a BAC of 0.04 percent for commercial operators. The BAC level of 0.04 percent permitted under the DOT regulations defining "under the influence" sends the wrong message. The Board strongly believes that the appropriate standard for commercial transportation operators in all modes should be lowered to zero blood alcohol.

In the marine area, the Board has made similar recommendations that states enact boating while intoxicated legislation. Since that 1983 recommendation, 28 states and one U.S. Territory have enacted such legislation. Programs implementing state legislation in Maryland, Missouri and California have been successful in reducing accidents, injuries, and fatalities. The Safety Board also has recommended that the U.S. Coast Guard prohibit the use of alcohol and other drugs on fishing vessels. As you know, the Board currently is conducting a comprehensive investigation of the role of alcohol in the tragic EXXON VALDEZ accident.

In the railroad area, it was the Board's call for action that finally led to the Federal Railroad Administration (FRA) testing rules. We have made recommendations to the FRA, the public and private rail corporations and their associations regarding chemical testing of key employees, and training of supervisory personnel. As a result of the collision in 1987 at Chase, Maryland, we recommended improved methods of identifying employees who abuse alcohol and/or other drugs. We have also recommended alcohol and drug screening for rail rapid transit employees in safety-sensitive positions.

From 1982 through 1988, approximately 165,900 people lost their lives in alcohol-related traffic crashes, an average of one every twenty-two minutes. In 1988, 50 percent of the fatalities were alcohol-related, down from 51.6 percent in 1987. Nearly 38 percent of the fatally injured drivers were drunk and nearly 25 percent of all drivers involved in fatal crashes were legally intoxicated at the time of the crash.

There was considerable public concern about drunk driving in the early 1980s. This led virtually every state to establish a high level task force or committee to review what was needed to strengthen its system for dealing with this tragic problem. The result was that every state passed improved laws and implemented new countermeasures to reduce drinking and driving. Hundreds of new laws were passed nationwide. Public media attention also increased, as did the formation and activism of citizens groups. The result was a decline in the number of alcohol-related fatalities.

The biggest drop occurred between 1982 and 1985, when the alcohol-related fatalities fell from 25,170 to 22,360. In the last few years there is evidence that media attention to the DUI problem is waning, and there has been relatively little significant new drunk driving legislation enacted by the states. As a result, the previous drop in alcohol-related highway fatalities has leveled off in 1986 and 1987.

If the nation is going to continue the progress made in reducing the incidents of drinking and driving, there needs to be a refocusing on this issue at all levels, especially at the local and state level. The Safety Board believes that the magnitude of the problem demands that additional attention be given to dealing with the drinking and driving issue.

We applaud the initiative and efforts of Dr. Koop and the expert workshop participants in developing a truly comprehensive set of recommendations for action by citizens as well as by public and private organizations. This is a national problem that requires aggressive action.

A year ago, the Board initiated an investigation of the worst drunk driving crash in U.S. history. A church schoolbus traveled southbound on I-71 near Carrollton, Kentucky with 63 children and 3 adults on board. Most were napping after a tiring day at an Ohio amusement park. At the same time, a pickup truck driven by a highly intoxicated driver was traveling northbound on the wrong side of the interstate. The pickup slammed into the bus at an estimated closing speed of 115 miles per hour, punctured the bus's gas tank, and ignited a fire of such great intensity and toxicity that the bus driver and 26 passengers were killed. Forty passengers survived, 34 with serious injuries.

The Safety Board determined that the probable cause of the accident was the alcohol-impaired condition of the pickup truck driver. The driver, a repeat DUI offender, had a blood alcohol level of 0.26 percent, more than 2 1/2 times the legal limit in most states and nearly 6 times the allowable level recommended by the Surgeon General.

Most important, the system of controlling alcohol-impaired drivers had identified this person before, and, although he had complied with Kentucky's DUI sentencing and rehabilitation program, this driver had not been deterred or rehabilitated.

As a result of the investigation of this crash, the Safety Board issued a series of recommendations to the states, federal agencies and private groups. The Board recommended that each governor establish a state task force to assess the effectiveness of their DUI program, implement administrative license revocation programs, eliminate plea-bargaining to a nonalcohol-related offense, eliminate reduced licensing penalties for education or treatment participation, improve diagnostic evaluations of convicted offenders, and enhance public awareness and enforcement programs.

We recommended that the State of Kentucky enact administrative license revocation, expand the use of preliminary breath test devices and the NHTSA Standardized Field Sobriety Test, expand the use of sobriety checkpoints, expand public awareness of deterrence programs, and encourage citizen participation in the "Report a Problem Intoxicated Driver Program."

If these recommendations sound familiar, they should. The Surgeon General has made similar recommendations. However, many of these recommendations are not new. In 1984, for example, the Safety Board recommended the expanded use of sobriety checkpoints and enactment of laws for the administrative revocation of drivers' licenses. The Safety Board strongly endorses the concept of immediate driver license suspension provided by administrative license revocation. We have testified to that effect in many state legislatures and reiterate that support here today. As with the 21 minimum drinking age, it is a concept that we believe will have an immediate as well as a long term effect in reducing alcohol-related fatal accidents.

The Safety Board has made many other recommendations that are similar to those recommended by the various panels of the Surgeon General's Workshop. Some examples follow:

- In 1986, the Board recommended that the Departments of Education, Health and Human Services and Transportation establish a national clearinghouse of alcohol/drug education programs, curricula, and related information.

  The Surgeon General has expanded that recommendation to include policy issues, advocacy, and prevention strategies.

- In 1985, the Board recommended that the state governors take action to require quantitative alcohol testing and reporting of results on all drivers involved in a fatal highway crash.

  The Surgeon General essentially has recommended that the same action be taken by the U.S. Congress but be expanded to include pedestrians, boats, and other vehicles.

- In 1984, the Board recommended that the state governors establish, continue, and/or expand the use of sobriety checkpoints as a highly visible means of deterring impaired driving.

  The Surgeon General has recommended both the use of sobriety checkpoints for enforcement and periodic roadside surveys for data collection on blood alcohol concentration (BAC) levels. Only one state -- Minnesota -- now collects roadside survey BAC data.

- As a result of the Carrollton accident, the Board recommended that the state governors establish state-level task forces to review driving-under-the influence legislation and implementation to focus on the problems and issues identified in that tragic accident.

  The Surgeon General made a similar recommendation for a state coalition to achieve the same goals.

- In our 1984 study of repeat offenders, the Board recommended use of preliminary breath test devices, the NHTSA Standardized Field Sobriety Test, elimination of DUI charge reduction to a nonalcohol-related charge, judicial DUI training, appropriate alcohol evaluations of offenders, elimination of diversion/treatment in lieu of license suspension, and establish offender tracking systems.

  The Surgeon General's recommendations are consistent with all of these previous Safety Board recommendations.

The Safety Board recommendation that includes administrative license revocation is a high priority of the Board. We have strongly advocated this position since 1984.

At that time, the Board recommended that the state governors enact legislation or utilize existing authority to provide for the administrative revocation of licenses of drivers who refuse a chemical test for alcohol or who provide a result at or above the state limit. The Surgeon General has made essentially the same recommendation. However, we believe the Board's recommendation goes even farther by linking license suspension for refusing a chemical test with license suspension for failing a chemical test.

A Minnesota study by the late Forst Lowrey found that 75 percent of drivers surveyed perceived an increased likelihood of punishment after the administrative license revocation law was enacted. A survey in Oregon found a similar perception. A Minnesota roadside survey also found less than half the proportion of drivers under the influence of alcohol after their law was enacted compared to the pre-law survey. In New Mexico, a study by Dr. Laurence Ross found that the proportion of drivers in fatal crashes with a blood alcohol concentration above 0.05 percent decreased from 66 percent to 56 percent after enactment of its law.

A recent study for the Department of Justice indicates that such laws can have an effect on the recidivism of arrested drinking driving offenders. An analysis of nearly three thousand North Dakota drinking driver offenders over three years determined that 29 percent of the pre-law offenders but only 17 percent of the post-law offenders were rearrested. This is a 42 percent reduction in recidivism.

Research from the Insurance Institute for Highway Safety indicates that administrative license revocation laws can reduce alcohol-related fatalities by an average of nine percent per year. This means that over 2,100 lives of the 23,350 persons killed in alcohol-related crashes in 1988 could have been saved if all states had these laws. Further, it is clear that there would also be a reduction in the injuries from these types of accidents.

The Congress has indicated the importance of such state laws through the Section 408 and Section 410 incentive grant programs administered by the National Highway Traffic Safety Administration. By considering the Surgeon General's recommendations, we believe you are reiterating the importance of administrative license revocation laws.

Since the Safety Board issued this recommendation, six states (Arizona, Connecticut, Florida, Kansas, Maryland, and Wisconsin) have enacted administrative license revocation laws. Twenty-six states and the District of Columbia now have administrative license revocation laws. Just over 38% of the population of the United States live in states with administrative license revocation laws. We need to make that 100 percent!

The Safety Board has determined that this is the single most effective action of all of those recommended that can be taken to reduce alcohol-impaired driving. The Surgeon General has recommended its enactment, and action on a national scale is long overdue.

Surgeon General Koop has had the courage to face the number one drug problem in America, and he has recommended some effective solutions. Society needs to heed these recommendations and act to stem the senseless carnage from alcohol and drug abuse.

WINE INSTITUTE

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[illegible]

STATEMENT BY WINE INSTITUTE

ON

EDUCATION, RESEARCH, AND COMMUNITY DEMONSTRATION PROJECTS

BEFORE

SENATE GOVERNMENTAL AFFAIRS COMMITTEE

HEARINGS ON ALCOHOLISM

HONORABLE JOHN GLENN, CHAIRMAN

Statement by
Patricia Schneider
Director of Health and Social Issues
to
Senate Governmental
Affairs Committee
Hearings on Alcoholism

Chairman John Glenn and Members of the Subcommittee:

On behalf of Wine Institute, the industry association of California winegrowers, I'm pleased to respond to your request for information on our philosophy, policies, public education, and research programs. We welcome this opportunity to address your committee.

Wine Institute's membership includes 539 wineries throughout the state. Our members represent over 80% of the wineries in our state, approximately 60% of all wine, foreign and American, sold in our nation, and constitute the largest single voice for wine in the U.S. Wine Institute represents a number of large firms, but also we base our perspective on a large number of small family operations. The wine industry has its roots in European winemaking traditions characterized by wine's association with meals and family heritage.

Our Philosophy

Wine Institute recognizes that alcoholism and alcohol abuse are complex public health problems. To encourage the proper use of wine, we engage in a variety of projects both nationally and in California. These initiatives were undertaken voluntarily as part of our commitment to social responsibility.

Wine Institute carefully designs its public information materials to reflect proper attitudes. We stress the use of wine with food, as a moderate table beverage. We also advocate those principles and attitudes research has shown can help create safe drinking practices. For example, we **hold overindulgence and intoxication to be absolutely unacceptable.** This statement is embodied in our educational materials and in our Code of Advertising Standards, which, among other things, condemns any advertising of wine or wine coolers that depicts the effects their alcohol content may produce. The advertising code also:

* **Advocates the use of integrated social contexts where wine is to be consumed in moderate mealtime settings.** For example, wines served as an accompaniment to, and not the focus of, an activity.

* **Condemns the use of athlete, amateur or professional celebrities, past or present; and other youthful heroes**

whose occupations have particular appeal to persons below the legal drinking age.

- **Condemns any advertising with particular appeal to persons below the legal drinking age,** such as those using models under age 25; music, language or gestures directed at those below the legal drinking age; or placement of advertising in magazines, newspapers, or television programs aimed at young people.
- **Condemns any suggestion of drinking and driving** or that wine be associated in any way with the use of motor vehicles.
- **Condemns any association of wine or drinking as being related to "rites of passage" or necessary for success.**

THE PROGRAM

Policy Statements

Wine Institute's policy statements on social responsibility address the following areas:

CODE OF ADVERTISING STANDARDS - In 1987, Wine Institute strengthened its voluntary advertising code for table wine to include wine coolers. We also adopted significantly stronger standards about youth and lifestyle issues. The code, reinforces wine's tradition as a moderate mealtime beverage. The code has been praised by government officials and public health groups including the Department of Health & Human Services, and has been the subject of commendatory resolutions adopted by the National Council on Alcoholism and the Alcohol and Drug Problems Association, among others. Members of Congress have lauded Wine Institute's educational program in "The Congressional Record" as a model of private sector social responsibility. (See Attachment)

EMPLOYEE ALCOHOLISM PROGRAM - In 1979, Wine Institute adopted a statement of policy on Employee Alcoholism Programs as part of our personnel management practices. Primary objectives of the program are to provide effective assistance to any employee who may develop alcohol problems and information and education for employees. The program has been made available to Wine Institute's full membership. (See Attachment)

SOCIAL RESPONSIBILITY AND DRUNK DRIVING - In 1984, Wine Institute augmented its educational programs with a new policy on Social Responsibility and Drunk Driving. This statement advocates a national uniform legal purchase and public possession age of 21 years for alcoholic beverages. This action exemplifies other initiatives by Wine Institute on drunk driving, including co-sponsorship of five national Lifesaver conferences with the **U.S. Department of Transportation**, and work with voluntary citizen groups including **Mothers Against Drunk Driving (MADD)** and **Students Against Driving Drunk (SADD)**. Wine Institute is a corporate sponsor of the annual **California Teenwork Conference on Drinking and Driving** developed by high school students, which directs a variety of successful pilot projects as positive alternatives to drinking and driving. This program is supported by the California State Department of Education, State Department of Alcohol and Drug Programs, and State Department of Traffic Safety.

Public Education

The California wine industry used public education programs to both respond to consumer interest and provide accurate information about our product.

These program's have 3 goals:

1) Strengthen wine's traditional use as a moderate food beverage.

2) Educate consumers about social, cultural, historical and religious attitudes and practices that contribute to proper use of the beverage.

3) Participate in programs to reduce alcohol misuse.

Our educational materials and wine tastings, symposia and programs attest to the first two points. The Wine Industry also supports a variety of community demonstration programs on alcohol abuse and alcoholism which have produced results in many communities.

One recent example of our Public Education Program is **The Wine Educator's Notebook**, which was developed as an authoritative guide for instructors teaching wine appreciation courses across the country. The publication includes **an important section on the Proper Use of Wine** with specific suggestions for instructors, to set guidelines for appropriate consumption and behavior. (See Attachment)

Our major effort over the past nine years has been an alcohol/alcoholism education project with the Alcoholism Council of California. Task forces are active in nine California counties. This project's emphasis is on youth, women and college age students. It received the National Prevention Award from the National Council on Alcoholism at the Council's National Alcoholism Forum in 1981.

A partial list of organizations with whom we have participated includes:

Alcohol Policy Council
Waterford, VA

Alcohol and Drug Problems Association of North America
Washington, DC

ALMACA (Association of Labor-Management Administrators and
Consultants on Alcoholism)
Arlington, VA

American Council on Alcoholism
Towson, MD

BACCHUS
(Boost Alcohol Consciousness Concerning Health of University Students)

Boston University School of Medicine - Fetal Alcohol Education Program
Brookline, MA

The Cottage Program International, Inc.
Salt Lake City, UT

Entertainment Industry Council
Reston, VA

Health Education Foundation
Washington, DC 20037

Lifesavers/6
Washington, DC 20036

National Association of State Boards of Education
Alexandria, VA

National Rural Institute on Alcohol and Drug Abuse
Madison, WI

North Conway Institute
Boston, MA 02108

Project Pegasus
Stanford, CA

Research Society on Alcoholism
Austin, TX 78756

Students Against Driving Drunk
Marlboro, MA 07152

Teenwork '88
Modesto, CA 95350

LICENSED BEVERAGE INFORMATION COUNCIL

Under the auspices of Licensed Beverage Information Council, Wine Institute works closely with beer, spirits and allied industries to implement educational programs in the area of teenage drinking, drunk driving, alcoholism and drinking and pregnancy. In California, this alliance of which Wine Institute is one of the three co-chairs, developed an educational program on good health practices during pregnancy. It is called the California Fetal Alcohol Syndrome Education Program and is designed to reach women of child-bearing age, especially high-risk pregnant women and their healthcare practitioners.

The program utilizes public service announcements, pamphlets and posters in English and Spanish to provide educational information on drinking and other health variables during pregnancy. As part of this program, an unrestricted grant has been given to the State Department of Education to support its Healthy Kids: Healthy California, comprehensive program for grades K-12.

An ongoing national Fetal Alcohol Syndrome Education Program, under the auspices of the Licensed Beverage Information Council (LBIC), was twice commended for its activities and work with public, private, and voluntary groups by the U.S. Surgeon General and Department of Health & Human Services. More recently, its programs have been awarded high honors by the White House Private Sector Initiative Office.

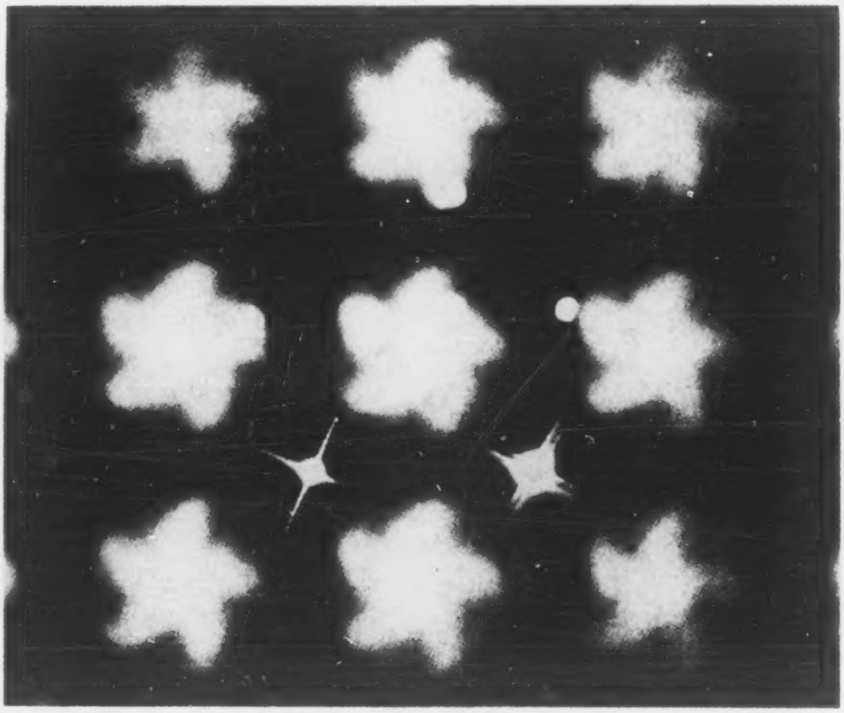
RESEARCH

Since its inception in 1934, Wine Institute has supported a strong program of viticultural and enological research. The industry also sponsors medical, scientific and social research. Projects have included alcoholism genetics, nutrition, cultural use patterning, cardiology and physiology.

SURGEON GENERAL'S WORKSHOP ON
DRUNK DRIVING

Proceedings

Washington, D.C. • December 14-16, 1988



SURGEON GENERAL'S WORKSHOP ON
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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
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    - Alcohol, Drug Abuse and Mental Health Administration
      - National Institute on Alcohol Abuse and Alcoholism
      - Office for Substance Abuse Prevention
    - Centers for Disease Control
    - Health Resources and Services Administration
      - Bureau of Health Care Delivery and Assistance
      - Bureau of Maternal and Child Health and Resources Development
    - Indian Health Service
- U.S. Department of Justice
  - Office of Juvenile Justice and Delinquency Prevention
- U.S. Department of Transportation
  - National Highway Traffic Safety Administration

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Printed 1989

Foreword

This Surgeon General's Workshop marks the beginning of a coordinated campaign to save the 25,000 lives that are lost each year because Americans persist in drinking and driving. As with smoking, the issues are many and complicated, and even small steps toward alleviating the problem trigger emotions and controversy.

Coordination began with having five Federal Departments sponsor the workshop – Defense, Education, Justice, Health and Human Services, and Transportation. The experts who participated in the workshop represent the broad array of specialists who must work together to bring this pervasive behavior under control. The difficulties they face were immediately apparent in the number of invited experts who declined to attend.

The participants spent 3 days generating solutions in 11 interrelated areas and developing recommendations that affect the wide range of people – from beverage servers to carmakers, from legislators to treatment providers, from advocates to advertisers – who can play some role in alleviating this problem.

The participants also suggested strategies for implementing the recommendations and set up timeframes for their accomplishment. They are included in this volume. Now it is our turn to act to make the Nation safe from the tragedies precipitated by combining alcohol and motor vehicles.

C. Everett Koop, M.D., Sc.D
Surgeon General

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Abbreviations

402 Programs	23 U.S.C. 402 Highway Safety Programs. These formula grants to the States for highway safety programs are administered by the Governors' Representatives for Highway Safety.
408 Programs	23 U.S.C. 408-I incentive grants to States for alcohol traffic safety programs
410 Programs	23 U.S.C. 410-I incentive grants to States for drunk driving prevention programs
ABC	Alcohol Beverage Control
ADAMHA	Alcohol, Drug Abuse and Mental Health Administration
ASAP	Alcohol Safety Action Projects
ASTHO	Association of State and Territorial Health Officers
BAC	Blood Alcohol Concentration
BIA	Bureau of Indian Affairs
CDC	Centers for Disease Control
CPL	Certified products list
DHHS	Department of Health and Human Services
DOJ	Department of Justice
DOT	Department of Transportation
DUI	Driving Under the Influence
DWI	Driving While Intoxicated The terms DWI and DUI are synonymous, meaning either driving while intoxicated or driving while under the influence. These are general terms referring to the criminal action of driving a motor vehicle either (1) while "illegal per se" or (2) while impaired, under the influence, or intoxicated by alcohol or other drugs.
EMS	Emergency Medical Systems
FARS	Fatal Accident Reporting System
FBI	Federal Bureau of Investigation
FCC	Federal Communications Commission

IACP	International Association of Chiefs of Police
IHS	Indian Health Service
Illegal per se	Refers to State laws that make it an offense to operate a motor vehicle while at or above a specified blood alcohol level.
MADD	Mothers Against Drunk Driving
MCD	Multiple Cause of Death file taken from death certificate data by National Center for Health Statistics
NAB	National Association of Broadcasters
NAGHSR	National Association of Governor's Highway Safety Representatives
NCADD	National Commission Against Drunk Driving
NCADI	National Clearinghouse for Alcohol and Drug Information
NCIC	National Crime Information Center
NHTSA	National Highway Traffic Safety Administration
NIAAA	National Institute on Alcohol Abuse and Alcoholism
NIDA	National Institute on Drug Abuse
NSA	National Sheriffs Association
OJJDP	Office of Juvenile Justice and Delinquency Prevention
OSAP	Office for Substance Abuse Prevention
PHS	Public Health Service
PI&E	Public information and education
PSA	Public service announcement
RADAR	Regional Alcohol and Drug Awareness Resource Network
RFP	Request for proposals
RWID	Riding With Intoxicated Driver

Contents

page

Foreword iii

Workshop Planning Committee v

Federal Advisory Group on Followup Activities for the Workshop . . vii

Abbreviations ix

Opening Remarks 1

  C. Everett Koop 2

  Otis R. Bowen 9

  M. George Reagle 12

Recommendations 16

  Pricing and Availability 17

  Advertising and Marketing 27

  Epidemiology and Data Management 33

  Education 37

  Judicial and Administrative Processes 47

  Law Enforcement 51

  Transportation and Alcohol Service Policies 55

  Injury Control 61

  Youth and Other Special Populations 66

  Treatment 77

  Citizen Advocacy 82

Closing Remarks, C. Everett Koop 93

List of Participants 101

Opening Remarks

Good afternoon. I am Faye Abdellah, Deputy Surgeon General, U.S. Public Health Service (USPHS), and am serving as moderator for this opening session.

First – Welcome to all of you to this historic Surgeon General's Workshop. The first was initiated by Dr. Koop in 1981.

The Surgeon General's Workshop is a concept, now inveterate, of convening experts to advise the Surgeon General and to identify the public health implications of major health problems demanding resolution.

This workshop provides you, the experts, with the opportunity to come together to advise the Surgeon General, within the constraints of his office, on how best to approach the problem of drunk driving from the perspectives of needed education, services, research, and health policy.

Previous workshops have addressed equally complex problems such as the needs of ventilator/handicapped children, child abuse, elder abuse, pornography, pediatric AIDS, self-help groups, and, most recently, health promotion and aging. For example, during the last workshop, one panel dealt with the problems of alcohol abuse in the elderly – often starting when they were adolescents. The recommendations of this panel were incorporated into the research agenda of the National Institute on Alcohol Abuse and Alcoholism (NIAAA). This is precisely the kind of result that we would like to see come out of your deliberations.

Soon after the workshop is completed, the workshop proceedings and background papers will be published and widely disseminated to appropriate groups at Federal, State, and local levels as well as private sector groups.

The purpose of this workshop is to develop a comprehensive set of recommendations that can help the Surgeon General bring drunk driving under control and eliminate drunk driving as the leading cause of death among young Americans.

Participants are encouraged to examine each expert panel charge in light of the following questions:

1. What do we know about the problem and its extent?
2. What have we done so far? Have these actions been effective or ineffective?

3. What do we need to know?
4. How do we put our knowledge into practice effectively? What will really work?

This is your mandate.

Let me now introduce this afternoon's speakers.

Introduction of Surgeon General C. Everett Koop

Dr. Koop, the 13th Surgeon General of the USPHS, has become the most effective Surgeon General since the establishment of that position. Why has he been so effective?

Dr. Koop has paid his dues to the health establishment many times over. His inimitable courage as a pioneer in pediatric surgery for more than four decades helped him climb mountains in the pediatric world never before surmounted. His appointment as the U.S. Surgeon General in November 1981 presented him with new mountains to climb; for example, planning and implementing the strategy to achieve a smoke-free society by the year 2000; introducing regulations to protect the newborn; protecting the confidentiality of those who are HIV positive, yet still seeking new ways of obtaining prospective data such as volunteer testing of college students; setting new guidelines for nutrition; and most important, strengthening the PHS Commissioned Corps to make this cadre of health professionals proud to serve throughout the United States and in many other parts of the world.

Not only does this Surgeon General climb mountains that appear to be insurmountable, but during his college days at Dartmouth, he was also known to jump off mountains. Does he fly? – NO. He does not have to. His enormous energy propels him on at least 16 cylinders!

Ladies and gentlemen, the U.S. Surgeon General C. Everett Koop.

Opening Remarks

C. Everett Koop. M.D., Sc.D.
Surgeon General of the U.S. Public Health Service
U.S. Department of Health and Human Services

Greetings to hosts, guests, and friends.

I want to thank you all for traveling to this workshop from so many parts of the country. You represent a cross-section of a nation deeply concerned about the annual toll of death and disability caused by drunk and drugged drivers.

You were chosen by a thoughtful, hard-working interagency planning committee. Its members came from five cabinet-level departments: Transportation, Justice, Education, Defense, and Health and Human Services. I'd hardly call it a parochial group, and I'm delighted that they found the name and address of each one of you.

I also wish to recognize a member of the House of Representatives who is with us today – Congressman William F. Goodling of Pennsylvania.

Congressman Goodling has been a dedicated and tireless leader in every major effort by the U.S. Congress to fight the scourge of drunk driving. The American people are very fortunate to have had him on their side so far, and we can look ahead to his continued leadership and support in the 101st Congress when it convenes next month. Welcome, Congressman Goodling, I'm very pleased to have you with us this afternoon.

All of you, gathered here this week, are respected experts in this field, but that doesn't mean you all think alike. I'm sure as the workshop sessions continue, we will become aware of the wide range of opinions and interests represented here.

I know this is not the best time of year to ask people to leave their homes and families and spend a few days at a conference. But I believe that this workshop is different. There's an urgency about the subject: drunk and drugged driving.

The urgency is almost palpable in the many letters that come in to my office from State and local officials of every area of the country. The urgency is also clear in the cards, letters, and telegrams I've received from surviving family members grieving over the loss of a loved one – someone killed by a drunk driver.

The urgency is clear from the response we've already had to the alcoholism and alcohol abuse initiative launched by Secretary Otis R. Bowen last year and reinforced at a major national meeting in San Diego this past October.

And it's clear from the sentiment expressed by 99 United States senators and from a unanimous House of Representatives, who have asked me to take on this issue and do whatever I can to bring it under control.

Although they are not here today, I do want to recognize two other individuals who have been of immeasurable help in the United States Senate – Senator Claiborne Pell of Rhode Island and Senator John W. Warner of Virginia, the two gentlemen who cosponsored that letter signed by them and 97 of their colleagues. And, again, Congressman Goodling can take great credit for the passage of that resolution – House Concurrent Resolution 276 – in the recent 100th Congress.

The Congress knows – as I certainly do, and as most of you know, also – that the powers of the Surgeon General are carefully circumscribed. I do not allocate funds, or operate programs, or carry out any specific legislation. Nor do I *pretend* that I do.

On the other hand, the power and authority of my office are heavily invested in *public education.*

My principal assignment, therefore, is to inform the American people of any threats to their health and to advise them of ways to avoid such threats, if they are known. I inherited that power and authority when I assumed the office of Surgeon General more than 7 years ago. And the credit for that goes to my 12 predecessors, going back for more than a century.

When the time comes for me to take my leave, I hope and pray that I will have done nothing to compromise the integrity and credibility of this great office. On the contrary, I hope I also might be remembered as having done something to further strengthen this office in the eyes of the Nation.

In this matter of drunk driving, the Surgeon General's role is virtually nothing more – but certainly nothing less – than public education. And by "the public," I include not only lay citizens but also my colleagues at all levels of government – Federal, State, and local – and my fellow citizens in the private sector, both in profit and nonprofit activities.

As Surgeon General, I have a responsibility to speak to them *all*. And I do, whether they are comfortable with what I have to say or not.

One of the mechanisms I have used for this purpose is the Surgeon General's Workshop. The workshop provides, as it were, an umbrella under which individuals and groups representing many diverse interests and points of view can assemble and talk out an issue of significance to the health of the American people.

That umbrella – to be effective – *has to be neutral*. Hence, let me assure all of you that I do not come to this workshop with any prearranged conclusions or recommendations or any preset ideas about what we should do next.

But let there be no mistake: I am *not* neutral about the issue of drunk driving. No sensible person can be neutral about that. Where we differ may be on the approach that the United States should take, as a civilized society, to *reduce* and maybe one day *eliminate* this terrible thief of health and life.

I ask you to please adopt this spirit as you take part in the working sessions tomorrow and Friday. In other words, I ask you to be willing to share your ideas, but also be willing to listen, and be willing to learn new things and maybe adjust some of your thinking, if need be.

If we have that kind of participation from everyone, then we may get a good deal closer to the core of this problem and the essence of its solution.

And that brings me to the announcement that the working sessions tomorrow and Friday will *not* be open to the press. That is consistent with past practices.

I have conducted nearly a dozen Surgeon General's Workshops during my two terms in office. The issues have included AIDS, liver transplantation, the care of handicapped children, family violence, pornography, and so on.

In each workshop, the main or plenary sessions, like this one, have always been open to everyone, including the press. But the *working* sessions have *not* been open. They have always been closed to nonparticipants, again, including the press.

The reason is simple enough. I want all invited participants to go into these sessions ready to speak their minds, ready to engage in open and candid give-and-take with colleagues and counterparts, and, yes, in the course of the debate, ready to change their own minds, if need be.

This approach is not only legal, it's very successful. And I am sure it will be equally successful for us at *this* workshop, too. Let me assure you, however, that, while the actual deliberations of the working sessions will be closed, the *results* of those sessions will be made public at the final open session on Friday. The recommendations will be presented to me by the persons who lead the sessions. I will take a little time to review them and then come back to you with my response in the final session, Friday afternoon.

Now, one more word about these recommendations.

This *is* the *Surgeon General's* workshop. And *I am* the Surgeon General. But I hope *you* will look *beyond* the office of Surgeon General when you make your recommendations.

As I indicated a moment ago, there's really only one recommendation for the Surgeon General – to speak out publicly on the issue of drunk driving. Well, I'm already doing that.

That's why I urge you to set your sights beyond the Surgeon General's office and recommend future action for education – State, local, public, and private – for law enforcement, for the health professions and the public health community, for the transportation and highway interests, and for communications, including advertising and broadcasting.

So, with those few ground rules in mind, let us move forward with our agenda, because time is not on our side. Even as we deliberate here in the safety of these hotel walls during this otherwise festive season of the year, alcohol consumption is up and so is the toll of alcohol-related traffic injuries and deaths.

Hence, we can expect that 1988 – like 1987 and 1986 before it – will be a year in which 24,000 *more* Americans will have died on our highways in alcohol-related accidents.

And many thousands more will have been killed in accidents that are *drug*-related, a fact we want to emphasize during this week, which is National Drunk and Drugged Driving Awareness Week.

During my brief time at this microphone – 20 minutes or so – one of our citizens will be killed by a drunk driver.

While you were grabbing a quick lunch at noontime, two more were killed.

And this evening, in the hour when you relax over dinner, *three more* will be killed in the same way.

An average of two to three of our fellow citizens are killed on our streets and highways every hour, around the clock, because they or others had their judgment and reflexes impaired by alcohol and other drugs.

By this time tomorrow, some 65 Americans will have died on the highway in alcohol-related accidents.

That's the picture in regard to alcohol-related fatalities. But over *a million* alcohol- and drug-related crashes occur every year on our highways, and most of them do *not* end in death. But they *do* result in injuries – *a half-million* injuries at a minimum.

When the vehicular wreckage is towed away, the *human* wreckage is left behind – the permanent brain damage, the spinal cord injuries, the lost or permanently deformed limbs, the blindness, and the impotence – the lifetimes crippled with disability and haunted by recurrent nightmares of how it all happened.

Tens of thousands of deaths, hundreds of thousands of injuries. Those are numbing statistics. But they are also *more than* just statistics.

They are real people, real human lives.

Unfortunately, a disproportionate number of highway victims are *young* people, young men and women between the ages of 15 and 24. No other comparable age cohort has such a record of death and injury on the highway.

And this age group, by itself, accounts for more than 8,000 alcohol-related fatalities, or about a third of all fatalities each year in which alcohol is implicated.

Fortunately, young people themselves are becoming more and more sensitive to this issue. That was one of the most encouraging aspects of the recent report of the public hearings held by the National Commission Against Drunk Driving.

Young people who testified at those hearings supported the minimum drinking-age law, seatbelt laws, more public education, and so on.

Also, according to the National Commission, young people themselves, "with near unanimity, declared that advertising encourages adolescents to drink," and the Commission went so far as to recommend that "in the absence of alcohol industry action, legislation should be enacted to regulate alcohol beverage advertising."

Young people may not be numerically represented here as they are in the death and injury statistics each year, but they should be uppermost in our minds during our deliberations today, tomorrow, and Friday.

And now, a final word. I've been spending some time lately preparing for the 25th anniversary of the publication of the first *Surgeon General's Report on Smoking and Health.* In doing so, I've been looking over that 25-year record of progress, and I find it very instructive.

Twenty-five years ago the public health community, with the support of citizens' groups and members of Congress, embarked upon a systematic program of research into the relationship between smoking and health.

At the same time, and in a responsible way, they also looked at the public policy implications of the research results, as those came to light.

From that information they were able to plan ways to help the American people end their high-risk romance with tobacco. Chief among these ways was a far-reaching program of public education and instruction.

And so it appears to me that we may now be – in terms of alcohol and drunk driving – where we were 25 years ago in terms of tobacco and the fatal diseases caused by smoking.

And that brings me to the particular charge for this workshop, the specific areas of interest I hope you address in the next 2 days:

- *First,* let's consider the *research agenda* required for this issue of drunk and drugged driving. We know quite a bit about the issue now, but much still remains to be learned. We clearly need to build a strong scientific base which either *confirms* alcohol's role in highway trauma, or *refutes* the connection between highway trauma and alcohol and other drugs.

- Next, we need to look at – or anticipate, if possible – the many *policy implications of that research.* In other words, *we* may feel we're justified by experience to have strong opinions about this and that, but the *country* needs an objective assessment of the knowledge base and its implications for public policy.

- Third – and also on the strength of an ongoing research program and its policy implications – we need to lay out *a plan with near-term and long-term public health objectives.* In other words, what kinds of actions must we take, in both the public and private sectors, in regard to drunk and drugged driving? What are our goals and objectives, and how should we go about reaching them, soon and over the long run?

- And finally, we need to devise *an overall strategy* for carrying out such a national plan. In these days of restricted and limited resources, we must make every person and every

> dollar count. That means not only having a plan, but also having a coherent and cost-effective approach to the *implementation* of that plan.

Those four elements, then, constitute my charge to this workshop: *research, policy, a plan of action,* and *an implementation strategy* for that plan.

That's a big assignment for a 3-day workshop. But I've found in workshops past that people tend to work more creatively and at a higher energy level if time is of the essence.

In any case, this workshop is not an on-the-job training experience for any of you. You are all seasoned and experienced individuals. Also, I'm not searching for the ultimate statement on the issue of drugged and drunk driving. Rather, I'm hoping for a document that will give the country a strong push in the most fruitful direction.

This may be the first meeting of this kind – and it's an important one – but I doubt that it will be the last one.

I am sure all of you can think of some people who are missing from this workshop. Maybe they will be at the next one – and the ones that will follow. But first, let's make the very best start we can.

Again, thank you for joining me this week at this workshop. I appreciate it, and the country will surely benefit from your contribution.

Thank you.

Introduction of Secretary Bowen

Dr. Bowen is the first physician to serve as Secretary of the Department of Health and Human Services. Having served two highly successful terms as Governor of Indiana, we are most privileged to have this physician as Secretary of DHHS.

Secretary Bowen has been able to accomplish what no other secretary has, namely, the introduction and successful passage of legislation related to catastrophic illness. President Reagan publicly stated that this legislation is the most important of his administration.

Why is it so important that Secretary Bowen be with us at this workshop? He has accomplished the following related to drunk driving.

- *He made alcoholism and other alcohol-related problems a special priority for the Department of Health and Human Services.*
- *November 1987, the Department announced a 14-point initiative to raise public awareness about alcohol-related problems in America.*

- *The Department created a public affairs campaign to help get the message across.*
- *The Department established a National Citizens Commission on Alcoholism.*

Ladies and gentlemen, Secretary Otis R. Bowen.

Opening Remarks

Otis R. Bowen, M.D.
Secretary of Health and Human Services

I'm delighted to join such distinguished company in addressing a very real problem that should be of concern to every single American.

I think this is a very appropriate time of the year to be focusing on this matter. The holiday season, from Thanksgiving to New Year's, unfortunately, is the occasion for a general increase in alcohol intake by the average person. All too often, what ought to be a joyous celebration of the revival of the human spirit is utterly destroyed by the abuse of alcohol and the tragedies that follow in its wake.

It's well to remember that, for our purposes, drunk driving is a misnomer. What we're really talking about is drinking and driving. It isn't necessary to be intoxicated; just a drink or two can make somebody behind the wheel a threat to themselves and to others.

The fact that the holiday season is usually marked by weather that makes road and highway conditions treacherous simply compounds the matter.

Now, I don't want to be the grinch that stole Christmas. But I do think this is as good a time as any to renew our annual plea that conviviality and good times shouldn't extend to the point of endangering lives and property.

I'll let Dr. Koop terrorize those who want to enjoy a big steak and a good cigar. Let me just sound the note of caution that's in keeping both with our purpose and its timing.

I don't think there is anyone who doesn't realize that alcohol abuse and alcoholism are having a devastating effect on American society.

And it's going to get worse.

Recent studies indicate that the annual cost to the country of alcohol abuse and alcoholism will reach $136 billion by the end of next year and will rise to $150 billion by 1995.

The checklist of statistics makes a sad litany indeed.

- In all, some 18 million American adults are either alcoholics or have alcohol abuse problems.

- Alcohol is a factor in things like teenage pregnancy, poor scholastic achievement, crime and violence, the gap in health status between white Americans and Americans from minority group backgrounds, and general loss of American productivity.
- An estimated 4.6 million adolescents annually – 3 out of every 10 American teenagers – have alcohol problems.
- Nearly 9 out of 10 teenage automobile accidents involve alcohol.
- Alcohol is a major disciplinary, vandalism, and crime problem on most college campuses.
- Some 40,000 babies are born each year at increased risk because of their mother's drinking during pregnancy.
- Fetal alcohol syndrome is one of the top three causes of birth defects and is the only one that's preventable.
- Women are the fastest growing component of the alcohol abuse segment of the population.
- Black, Hispanic, and Native American minorities suffer disproportionately from alcohol-related problems.

In an attempt to do something about this national catastrophe by increasing public awareness, I launched a 14-point initiative a year ago in the U.S. Department of Health and Human Services. Since putting alcohol abuse and alcoholism in the spotlight, we have been able to accomplish a number of things.

- We've established a National Citizens Commission on Alcoholism.
- We've created a special public affairs campaign to inform the American people of the serious health effects of alcohol.
- We've developed a new publication called *Alcohol Alert* to expedite the delivery of research findings into the hands of clinical practitioners.
- We've held two national conferences on alcoholism and alcohol abuse that brought together more than a thousand clinical practitioners, researchers, and prevention specialists.
- And we've joined forces with the American Medical Association to improve the training of physicians in the detection and treatment of alcohol problems.

There is, of course, much that still needs to be done. One of the major alcohol issues that demands our attention is the operation of a motor vehicle while under the influence of alcohol. And that's the reason for this workshop.

Alcohol-related motor vehicle accidents are a very serious national public health problem. Every year, they inflict lingering spinal cord and brain injuries and other trauma on half a million people. And they kill 24,000 in this country alone. The toll in human misery is awesome and intolerable.

Dr. Koop is to be highly commended for organizing this 3-day workshop. He has enlisted in his cause the Federal Departments of Defense, Education, Justice, and Transportation.

And from our Department of Health and Human Services, the Centers for Disease Control, the Health Resources and Services Administration, the Indian Health Service, and the Alcohol, Drug Abuse, and Mental Health Administration all work together on this problem.

In the past, there have been honest disagreements on the best ways to solve this problem of alcohol-impaired driving. This workshop will attempt to bring together all the public health, academic, government, public safety, law enforcement, and advocacy points of view. And hopefully, it will produce the best background research and recommendations on the problem, from which can come a comprehensive plan to reduce alcohol-impaired driving and eliminate it as a leading cause of disability and death among Americans, many of them unacceptably young.

When these findings reach every level of our society, perhaps that process can begin.

Dr. Koop is going after alcohol-impaired driving the way he has gone after cigarette smoking. His goal is to save lives. I support his effort.

And even though my stewardship is about to end, the commitment of the Department of Health and Human Services will not. In fact, planning has already begun for the third national conference on alcoholism and alcohol abuse. The second conference, last month in San Diego, was enormously successful, with more than 1,400 people in attendance. The next conference promises to be even better.

We aren't the only ones with these concerns. Maybe from others in the international community we can learn new ways to combat the problem that brings us together today, and maybe we can teach them something of what we know.

There may be no magic bullet to end the tragedy of alcohol abuse and driving, but I think we can begin to develop at this workshop ways and means of dealing with it that will be just as effective.

I am pleased to see that several members of the Congress are participating in this workshop. They can play a vital role in anything we hope to accomplish.

Thank you for coming. I wish you every success in your deliberations.

Introduction of M. George Reagle

Mr. George Reagle is representing Secretary Burnley of the Department of Transportation. Mr. Reagle is the Associate Administrator, National Highway Traffic Safety Administration, Department of Transportation. The Department of Transportation has a long history of cooperation with the Department of Health and Human Services and has been working under an interdepartmental agreement with us for many years in a cooperative fashion on this issue. The Department of Transportation historically has been involved in drunk driving issues since the 1960s when they implemented alcohol safety action programs. This is another step in their ongoing efforts to address this issue of drunk driving.

Ladies and gentlemen – Mr. George Reagle.

Opening Remarks

George Reagle
Associate Administrator for Traffic Safety Programs
National Highway Traffic Safety Administration

Distinguished panel, ladies, and gentlemen.

I want to thank you for the opportunity to address this gathering of experts on the problem of drunk driving. I sincerely hope that your deliberations over the next few days can provide us with additional energy and information to reduce drunk driving and its tragic consequences.

Alcohol Safety Action Projects

During the 1970s, the National Highway Traffic Safety Administration (NHTSA) placed a great deal of emphasis on the problem of drunk driving via a national demonstration program involving 35 Alcohol Safety Action Projects (ASAPs). These 35 projects were designed to reduce drunk driving at the local level by combining the various elements (e.g., enforcement, licensing, adjudication, public information) into a system at each locality. Prior to this time, persons in these different areas frequently did not coordinate their efforts to deal with the drunk driving problem.

Evaluation was a major component of these ASAPs, and we were able to get a reading on how successful we were. By the end of the projects, we had demonstrated significant reductions in nighttime fatal crashes in 12 of the 35 sites. Still, from 1970 to 1976, we were not able to detect any significant, national level changes in the problem of drunk driving.

Indepth Demonstration Projects

We then began to look in depth at the various countermeasure elements to see if we could find ways to improve them and demonstrate their effectiveness. We conducted a DWI enforcement demonstration project in Stockton, California that showed that specially trained and motivated officers were able to significantly increase DWI arrests and to make small but significant reductions in alcohol-related crashes. We conducted probation demonstrations in Mississippi and Tennessee and found that long-term followup with a diagnostic and assessment program called the "Life Activities Inventory" resulted in significant reductions in recidivism among convicted drinking drivers. In addition, we conducted a comprehensive DWI treatment demonstration in Sacramento, California which showed that intensive treatment and long-term followup could significantly reduce recidivism among convicted drinking drivers.

Again, however, we detected no changes in the national levels of drinking and driving or in the fatalities or crashes involving drinking drivers during this period (1976-80).

1980: A Pivotal Year

By 1980, we had done much groundwork in attempting to find solutions to the problem of drunk driving. We had conducted and evaluated local level, comprehensive programs; we had looked in depth at individual countermeasures, and we had reviewed the results of international efforts to reduce drunk driving during the past several decades. As a result of our experiences and those of foreign nations, we began to place significantly greater emphasis on *general deterrence* of drunk drivers. This meant that deterrence activities such as roadside sobriety checkpoints, swift and sure license actions, jail sentences for multiple offenders, and increased fines received greater emphasis and more media attention. To convey this new emphasis to State and local highway safety leaders, in 1980 we initiated a series of *alcohol-safety workshops* to review the results of the past decade and to convey the latest technology to these leaders.

About the same time, however, a much more important development emerged. Citizen activist groups, which had begun as early as 1978, became more visible across the Nation. These groups represented an element that had been missing in the efforts to reduce drunk driving in the United States – a concerned public. Recognizing the potential of such groups to bring about needed changes, we included them in our series of State workshops and gave them an opportunity to voice their concerns to State highway safety leaders.

The program we were advocating at that time was a six-point program involving (1) general deterrence, (2) prevention and intervention, (3) citizen activist support, (4) emphasis on a total systems approach, (5) financial self-sufficiency, and (6) a focus on the community level.

Suffice it to say that energy produced by the emergence of citizen activists, combined with the new emphasis on general deterrence measures, resulted in the most dramatic progress ever experienced in this Nation in terms of reducing drunk driving. The activists, and the media attention that they produced, resulted in dramatic increases in DWI legislation, arrests, convictions, sanctions, education programs, designated driver programs, responsible server programs, etc.

Most importantly, the alcohol-related proportion of fatal crashes decreased nearly every year since 1982. For example:

- The alcohol-related proportion of fatalities was reduced from 57 percent (in 1982) to 51 percent (in 1987), a reduction of 11 percent from the 1982 level.

- The proportion of fatalities involving an intoxicated driver was reduced from 46 percent (in 1982) to 40 percent (in 1987), a reduction of 13 percent from the 1982 level.

- The alcohol-related proportion of fatalities among youth (under age 21) was reduced from 63 percent (in 1982) to 51 percent (in 1987), a 19-percent reduction.

- The proportion of youth fatalities involving an intoxicated driver was reduced from 49 percent (in 1982) to 35 percent (in 1987), a 29-percent reduction.

Never before in the history of this Nation had such reductions been recorded. They were larger than ever before, and they were documented in several successive years. Unfortunately, since 1985, these reductions appear to have slowed or stopped.

Problems Remaining

Unfortunately, we have a long way to go to eliminate or even greatly reduce the tragedies that result from drunk driving. More than half of all fatal crashes continue to be alcohol-related. More than 80 percent of these alcohol-related fatal crashes involve a legally intoxicated driver (i.e., with a blood alcohol concentration greater than 0.10). Similarly, more than half of all fatal crashes involving youth continue to be alcohol-related, and approximately 70 percent of these alcohol-related fatal crashes involve an intoxicated driver.

Primary Objectives for Reducing Drunk Driving

To further reduce drunk driving, we must concentrate on specific program objectives. Some of the most important include the following.

- Deterring drinking drivers who have not been caught (but who will contribute to approximately 75 percent of alcohol-related fatal crashes in the future)
- Reducing the impaired driving recidivism of drivers who have already been arrested and processed through our criminal justice and/or administrative sanctioning and rehabilitation processes
- Preventing drinking and driving by such means as public information, education, more responsible serving and hosting practices, intervention by friends, designated driver programs, safe ride programs, and preventing the sale of alcoholic beverages to minors

We can act to reduce this problem in many areas. It is important that we look at all of them. I am encouraged to see so many topical areas being addressed at this workshop.

What NHTSA Hopes to Gain From the Workshop

From our perspective at NHTSA, this workshop provides us with an opportunity to inject new energy into the anti-drunk driving movement. Clearly, such additional energy and motivation is necessary if we are to again realize significant reductions in the tragic consequences of this serious behavior.

The recommendations made by workshop participants will broaden the activities and number of organizations involved in the efforts to stop drunk driving. We expect that this workshop will be a major factor in our current attempts to make drunk driving a public health issue and to enlist the aid of public health and medical groups in our efforts.

Thank you for taking your time to come here and address this problem. I wish you success in developing recommendations that can actually make a difference in reducing this most serious public health problem, drunk driving.

Recommendations

After meeting and debating for 2 days in closed sessions, the panels prepared and presented to the workshop participants and the Surgeon General the following recommendations and strategies for implementing them.

Note to readers:

On December 14, 1988 the National Beer Wholesalers Association filed a lawsuit in the United States District Court seeking relief under the Federal Advisory Committee Act to postpone or cancel the Surgeon General's Workshop on Drunk Driving. Pursuant to the Court's order, the Surgeon General opened the workshop to members of the public. Thereafter, the parties resolved the remainder of the lawsuit by entering into a settlement agreement in which the Surgeon General agreed to accept and consider comments from interested parties until January 31, 1989. The Surgeon General also agreed that the final recommendations would not be made before February 28, 1989 and that the final recommendations or report would consider any such written comments. Since the legal ruling was delivered after the opening plenary session of the workshop, its stipulations were not reflected in the opening remarks.

Extensive comments were submitted but are not included in these proceedings because they were not part of the offical workshop deliberations and because they were so lengthy. The comments were considered; however, they did not alter the recommendations published in this report. The comments will continue to be used in the implementation of strategies to eliminate alcohol-impaired driving.

Panel A

Pricing and Availability

Chair:	Harold Holder, Ph.D.
Background Paper:	Alexander Wagenaar, Ph.D.
Recorder:	Mary Ganikos, Ph.D.
Panel Members:	George McCarthy
	Dennis Nalty, Ph.D.
	Michael Jacobson, Ph.D.
	Charles Phelps, Ph.D.
	Sandy Heverly

The Pricing and Availability Panel was charged with discussing matters of concern and controversy, i.e., the pricing and availability of alcoholic beverages. A significant portion of American industry is involved in the production, distribution, and wholesale and retail sale of beer, wine, and distilled spirits. The panel does not challenge the rights of these industries or businesses to produce and sell alcoholic beverages. However, the panel found that by changing pricing and availability of alcoholic beverages, alcohol-impaired driving injuries and fatalities could be reduced.

The panel prefers the adjective "alcohol-impaired" rather than "drunk" in reference to driving. This acknowledges the increased risk of crash, injury, and death for drivers and others when even small amounts of alcohol are consumed. This is particularly true for young drivers.

The panel's deliberations and recommendations are based on two sources of information:

- Scientific research on relationships between alcoholic beverage price and availability and alcohol-involved driving
- Experience and expert knowledge of panel members and others in the field

Price

Research evidence shows that an increase in the excise tax could have the largest long-term effect on alcohol-impaired driving of all policy and program options available. Since Federal excise taxes differ widely by beverage type, and the effective tax rates have declined by three-quarters because of inflation since 1951, the panel makes the following recommendations to Federal and State Governments.

A-1 Recommendations to the Federal Government

A-1.1 Equalization – Equalize Federal excise tax rates by ethanol (pure alcohol) content across all beverages by raising rates for beer and wine to that of distilled spirits.

A-1.2 Adjustment for past inflation – Adjust the resulting equalized excise tax rate to reflect the change in the Consumer Price Index (CPI-U) since 1970.

A-1.3 Future indexing – Annually adjust the resulting excise tax rate to reflect changes in the Consumer Price Index (CPI-U) for the previous year.

A-2 Recommendations to State Governments

A-2.1 Equalization – Equalize excise tax rates by ethanol content across all beverages by raising rates for beer and wine to that of distilled spirits.

A-2.2 Adjustment for past inflation – Adjust the resulting equalized excise tax rate to reflect past inflation.

A-2.3 Future indexing – Annually adjust the resulting excise tax rate to reflect the change in the Consumer Price Index (CPI-U) for the previous year.

A-2.4 States with relatively low tax levels should increase their rates to at least the levels in bordering States.

Strategy

For Recommendations A-1 and A-2, the Surgeon General should take the following steps by April 1, 1989 to achieve equalization, adjust for past inflation, and provide indexing for future inflation for Federal excise taxes on beer, wine, and distilled spirits. The Federal excise tax increases should be part of the FY 1990 budget.

1. *Write letters to all members of the U.S. Congress concerning the need to raise taxes as a means of reducing alcohol-impaired driving and the Federal budget deficit.*
2. *Write similar letters to all State Commissioners of Health requesting that they urge their State's congressional delegation to support higher Federal excise taxes. The Surgeon General should also offer assistance to review State alcohol excise tax laws.*
3. *Write letters to President Bush, the Secretaries of Health and Human Services and Treasury, and the Director of Office of Management and Budget addressing the need for both increasing alcohol excise taxes and ending the tax deductibility of alcoholic beverage purchases.*
4. *Urge the National Economic Commission to include Federal alcoholic beverage excise tax increases in its recommendations.*
5. *Convene a meeting with appropriate Congressional leaders in health and financial matters on the health and budgetary benefits of raising Federal alcohol excise taxes.*
6. *Prepare a position paper on the health and fiscal benefits of raising alcohol excise taxes, addressing alcohol-impaired driving and other alcohol-related problems as well as increased revenues.*
7. *Urge organizations and citizens concerned about alcohol-impaired driving, other alcohol problems, and the Nation's economic and social well-being to urge the President and their congressional representatives to support higher alcohol taxes.*

Preventing Increased Availability

The availability of alcoholic beverages in a community can significantly affect the extent of alcohol-impaired driving. The effects of small increases in availability on alcohol-impaired driving are difficult to measure.

Nevertheless, the cumulative effect of several such changes can be substantial.

Therefore, the panel recommends:

A-3 Federal, State, and local governments should not adopt policies that result in increased availability of alcoholic beverages without careful analysis, study, and public debate about the potential effects on alcohol-impaired driving. This applies particularly to bars, restaurants, and other public facilities, since research shows that the majority of alcohol-impaired drivers obtain alcohol at such places.

Reducing Availability

To reduce alcohol-impaired driving, State and local governments, and/or the Federal Government where appropriate, should consider applying the following measures.

A-4 Adopt or strengthen server/seller liability statutes and policies to encourage responsible serving and selling practices.

A-5 Prohibit "happy hours" and other reduced-price promotions.

A-6 Require training and certification of sellers and servers of alcoholic beverages.

A-7 Restrict alcohol sales by time and place at sporting, music, and other public events.

A-8 Adopt open-container laws that prohibit drinking while driving.

A-9 Permit local governments to enact regulations that are more restrictive than State Alcohol Beverage Control (ABC) laws.

A-10 Strengthen laws concerning hours of sale, characteristics and density of outlets, and other factors relating to retail availability of alcoholic beverages.

A-11 Increase enforcement of existing State and local Alcohol Beverage Control regulations and increase resources available for enforcement.

A-12 Eliminate the tax deductibility of alcoholic beverage purchases for business purposes.

A-13 Prohibit or discourage serving and selling practices that increase the level of alcohol-impaired driving.

A-14 The Federal Government has a primary responsibility for these matters in three important settings – military bases, commercial aviation crews and travelers, and general aviation pilots – and should adopt a strong leadership role in appropriately controlling pricing, availability, and use of alcoholic beverages in these settings.

Strategy

For Recommendations A-1 thru A-14, the Surgeon General should take the following steps by November 1, 1989 to reduce alcohol-impaired driving by limiting and reducing alcohol beverage availability.

1. *Write letters to a broad range of health and other civic organizations and parents, asking that they support higher Federal and State alcohol taxes and other measures that limit and reduce alcoholic beverage availability.*
2. *Convene no later than June 1989 a conference of State budgetary and health officials to describe and discuss the health and fiscal benefits of raising alcohol excise taxes. The Surgeon General should pay special attention to States that have relatively low excise taxes.*
3. *Write letters to governors, mayors, ABC administrators, and State and local police leaders to recommend measures they could take that would reduce alcohol-impaired driving through better control of alcoholic beverage availability.*
4. *Give a national address on alcohol-impaired driving and the need to increase excise taxes and reduce alcoholic beverage availability.*
5. *Urge owners and managers of stadiums and other such public facilities to restrict alcoholic beverages as necessary to reduce alcohol-impaired driving.*
6. *Urge sellers and servers of alcoholic beverages, through their trade associations, to end reduced price promotions such as happy hours, eliminate serving practices that increase risk of*

alcohol-impaired driving, and implement server and seller training.

Future Research

Finally, in support of these above recommendations, the following research should be undertaken.

A-15 Evaluate the impact on alcohol-impaired traffic problems as policy recommendations of this panel are implemented at Federal, State, and local levels.

A-16 Determine the specific price sensitivity of changes in alcohol-impaired driving by age and gender.

A-17 Document the contribution of location, density, and hours-of-sale of alcohol outlets to alcohol-impaired driving and resulting injuries and fatalities.

Estimating Effects of Increased Federal Excise Tax on Alcoholic Beverages

Charles E. Phelps, Ph.D.*

The Pricing and Availability Panel of the Surgeon General's Workshop on Drunk Driving proposed a three-step strategy for dealing with Federal excise taxes (FET) on alcoholic beverages. This note describes the proposed changes and their consequences.

Increases in the Federal Excise Tax

Equalize all tax rates to that of distilled spirits. Currently, distilled spirits are taxed at $12.50 per gallon of 100-proof alcohol. This converts directly to $2.50 per fifth of 100-proof alcohol, or $2 per fifth of 80 proof. A standard drink of 1.41 oz of 80-proof alcohol thus has a Federal excise tax of $0.11 attached to it.

The equivalent tax on beer is derived by assuming that beer is, on average, 4.7 percent alcohol (some more, some less). This is 9.4 proof, so to equalize rates, beer should be taxed at 9.4 percent of the rate for 100-proof alcohol, or $1.175 per gallon. This equals $0.11 per 12 oz serving of 4.7-percent alcohol, the standard drink of beer.

The equivalent tax on wine is derived for wine with 12 percent alcohol content, or 24 proof. Thus, a gallon of wine should be taxed at 24 percent of $12.50, or $3 per gallon, or $0.60 per fifth (25.6 oz). Thus, a standard drink of 4.7 ounces of wine has a tax of $0.11 attached to it after equalization.

Correct for inflation since 1970. The 1970 distilled spirits tax was $10.50 per proof gallon, or $1.68 per fifth of 80 proof. Inflation correction since 1970 provides a multiplying factor of 3, so the equivalent 1989 tax would be $5.04 per fifth, an increase of $3.04 per fifth from the current tax, or $0.167 per standard drink, to a tax per standard drink of $0.277. This becomes the 1989 standard tax.

The current tax on beer is $0.027 per 12 oz serving, so the equivalent inflation-corrected tax would increase by $0.25 to $0.277 per 12 oz serving.

The current tax on wine is $0.17 per gallon and $0.034 per fifth. Raising it to the inflation-corrected distilled spirits tax brings the wine tax to $1.50 per fifth of 12-percent wine, (again) $0.277 per drink. This represents an increase of $1.47 per fifth of wine, or $0.271 per standard drink.

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*Professor of Political Science and Economics and Director, Public Policy Analysis Program, University of Rochester

Index for future inflation. This will prevent erosion of the real Federal excise tax in the future.

Relative Price Changes

The following calculations assume, as would occur in standard competitive industries, that a tax increase will be added to retail price on a dollar-for-dollar basis. In a monopoly, the cost-passthrough would be less, using standard monopoly pricing models.

Distilled spirits. Currently, the average retail price of distilled spirits is approximately $11.50 per fifth. The added tax of $3.04 per fifth represents a 26-percent increase in the price of distilled spirits. The relative increase is smaller for premium brands (and conversely for low-price brands), since the proposed tax is based on alcohol content, not price.

Beer. Currently, the average price of beer is approximately $0.70 per can, or $4.20 per six pack. The tax would increase by $0.25 per can, representing an average increase of 36 percent. Again, the relative change would be smaller (larger) on relatively high (low) priced beers.

Wine. Currently, a bottle of wine is taxed at $0.036. The current average price has been estimated at $3.07 for table wines, higher for coolers, fortified wines, and naturally carbonated wines. On this base, an increase of $1.47 per bottle represents an increase of 48 percent.

Consumption Changes

The demand elasticity has been estimated for distilled spirits and wine at about –0.5 to –1. For beer, –0.4 is a reasonably well-established estimate.

Distilled spirits quantity. The quantity response to a 26-percent increase in price would be a decline of 11 to 21 percent, using the assumed range of elasticities.* With the current apparent consumption at 44 billion drinks, the decline would range from 4.9 to 9.2 billion drinks, giving a new total of 39.2 to 34.8 billion drinks. The midrange of these estimates is a decline of 7 billion drinks to 37 billion drinks.

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*These calculations assume a constant/elasticity demand model. The new consumption relative to current consumption is found by raising (1+t) to the power of the elasticity. For example, if the elasticity is -0.5, and if the tax adds 26 percent to the current price, then the new consumption is old consumption multiplied by (1.26 raised to the -0.5 power), which equals 0.89. Thus, current consumption would fall by 11 percent.

Beer quantity. The quantity response to a 36-percent increase in the price of beer, using an elasticity of –0.4, is a decline of 11.6 percent. The estimated current volume is 58 billion drinks annually; the projected decline of 6.7 billion would bring the new annual total to 51.3 billion drinks.

Wine quantity. The response to a 48-percent increase in the price of wine is as follows. Current consumption is estimated at 13.2 billion drinks. For a price elasticity of –0.5 to –1, consumption would decline by 18 to 32 percent. The new quantities would be 10.8 billion to 9 billion drinks. The average of these, 9.9 billion drinks, represents a decline of 3.4 billion.

Implications for Federal Tax Revenue

On the new quantity of 37 billion distilled spirits drinks, the Federal excise tax would total $10.25 billion. The current FET of $0.11 per drink imposed on 44 billion drinks produces a current revenue of $4.84 billion, thus the net increase in FET would be $5.4 billion.

On the new quantity of 51.3 billion beer drinks, the Federal excise tax would be $14.2 billion. The current tax of $0.027 per drink on 58 billion drinks produces revenues of $1.57 billion. Thus, the net increase would he $12.6 billion.

On the new quantity of 9.9 billion wine drinks, the Federal excise tax would be $2.7 billion. The current tax of $0.006 per drink on 13.2 billion drinks yields $80 million. Thus, the net increase would he $2.6 billion.

Combining these three sources, the estimated increase in FET would be $20.6 billion. These estimates rise (fall) as the assumed elasticity is smaller (larger) than the mid-range estimates used in this calculation.

Lives Saved

The estimates from Saffer and Grossman, from Cook, and from Phelps all suggest that the elasticity of fatalities with respect to alcohol price is about –0.7 to –1. The current proportions of drinks in the total market are 50 percent for beer, 38 percent for distilled spirits, 12 percent for wine. Thus, the weighted price change recommended by the Pricing and Availability Panel is 33.6 percent. The ensuing reductions in highway fatalities would be 19 to 25 percent. On an approximate base of 44,000 highway fatalities in 1988, this represents the avoidance of some 8,400 to 11,000 premature deaths annually.

References

Cook, P.J. The effect of liquor taxes on drinking, cirrhosis and auto accidents. In: Moore, M.H., and Gerstein, D.R., eds. *Alcohol and Public Policy: Beyond the Shadow of Prohibition*. Washington, DC: National Academy Press, 1981. pp. 255-285.

Saffer, H., and Grossman, M. Beer taxes, the legal drinking age, and youth motor vehicle fatalities. *Journal of Legal Studies* 16:351-374, 1987.

Panel B

Advertising and Marketing

Chair:	Robert Denniston
Background Paper:	Charles Atkin, Ph.D.
Recorder:	LCDR Joyanne Murphy
Panel Members:	Doris Aiken
	Jan Howard, Ph.D.
	Lawrence Wallack, Dr. P.H.
	Michael Mazis, Ph.D.
	James W. Swinehart, Ph.D.
	Jean Kilbourne, Ed.D.
	Rae Tyson
	Beverly Campbell
	Mary Beth Robinson

Education about alcohol is a critical first step toward a comprehensive approach to alcohol problems in our society. Mass communication is one major source of learning about alcohol use, especially for youth. In particular, alcohol advertising tends to glamorize alcohol use and to give a one-sided view without providing information about the consequences of such use. Hence, more complete and accurate information is needed. Therefore, the panel makes the following 17 recommendations in six categories.

Advertising and Promotion

B-1 Match the level of alcohol advertising with equivalent exposure for effective pro-health and safety messages to provide more complete and accurate information.

Strategy

Assuming continued limitations on public service media availability, a mandate to government to allocate funds to purchase time for alternative/counteradvertising is necessary. If this goal is not adequately met within 1 year, a system for mandated counteradvertising should be implemented.

B-2 Eliminate alcohol advertising and promotion on college campuses where a high proportion of the audience reached is under the legal drinking age.

Strategy

1. *The Surgeon General should request that the alcohol industry cease advertising and promotion efforts on such college campuses by September 1989.*
2. *The Surgeon General should*
   - *write to such university presidents recommending that they disallow advertising and promotion of alcohol and*
   - *provide guidelines and training sessions to the universities.*
3. *Alcoholic beverage industry codes should be revised to incorporate this recommendation.*
4. *The public should be informed of the extent and consequences of alcohol advertising and promotion on college campuses.*
5. *Sanctions (legal or economic) should be developed against the alcohol industry, and possibly universities, if alcohol advertising and promotion on such campuses do not cease by September 1990.*

B-3 Eliminate alcohol advertising, and promotion and sponsorship of public events (e.g., musical concerts, athletic contests), where the majority of the anticipated audience is under the legal drinking age.

Strategy

1. *The Surgeon General should request that the alcohol industry cease advertising and promotional efforts at such public events as well as sponsorship of such public events by September 1989.*

2. *Industry codes should be revised to incorporate this recommendation.*
3. *A letter from the Surgeon General should ask event promoters, sponsors, etc., to disallow advertising and promotion of alcohol at such events.*

B-4 Eliminate official sponsorship of athletic events (e.g., the Olympics) by the alcohol beverage industry.

Strategy

1. *The Surgeon General should request that the alcohol industry cease advertising and promotion efforts through the sponsorship of athletic events.*
2. *Industry codes should be revised to incorporate this recommendation.*

B-5 Eliminate alcohol advertising and promotion that portray activities that can be dangerous when combined with alcohol use.

Strategy

1. *The Surgeon General should request that the alcohol industry cease advertising and promotion efforts that portray activities that can be dangerous when combined with alcohol use.*
2. *Industry codes should be revised to incorporate this recommendation.*

B-6 Eliminate the use of celebrities who have a strong appeal to youth in alcohol advertising and promotion.

Strategy

1. *The Surgeon General should request that the alcohol industry cease advertising and promotion efforts through the use of celebrities with a strong appeal to youth.*
2. *Industry codes should be revised to incorporate this recommendation.*

B-7 **Eliminate tax deductions for alcohol advertising and promotion other than price and product advertising.**

Strategy

1. *Introduce legislation in the 101st Congress to address this recommendation.*
2. *Introduce legislation in State legislatures to address this recommendation.*

B-8 Warning labels, now required (as of November 1989) on alcoholic beverage containers, should also be required, clearly and conspicuously, in all alcohol advertising.

Strategy

Introduce legislation in the 101st Congress to extend the warning label law to include warning labels on all advertising consistent with the timetable of the current law.

B-9 Develop and implement training for local community groups regarding advertising and promotion issues and about voluntary and legal approaches for addressing this problem.

Entertainment Programming

B-10 Encourage the creative community to more fully and accurately portray the dangers associated with drinking and driving, and to provide highly visible role models for prevention. We acknowledge and commend the efforts of the creative community to date.

Strategy

1. *The Surgeon General should communicate with appropriate individuals through letters.*
2. *Workshops should be developed to stimulate increased attention to alcohol-related issues.*

News Coverage

B-11 Encourage comprehensive news reporting of alcohol-related problems in general, and crashes in particular.

Strategy

1. *The Surgeon General should develop and disseminate a fact*

sheet on alcohol to be distributed to news organizations. This fact sheet should include information such as the following.

- *Alcohol is a drug, and beer is the alcoholic beverage of choice.*
- *Alcohol is addictive.*
- *The number of alcohol-related deaths includes approximately 25,000 traffic fatalities annually.*

2. *Encourage inclusion of information about the role of alcohol in news reporting of local crashes when appropriate.*
3. *Develop and disseminate twice annually a news release from the Surgeon General providing the latest available information on drinking and driving.*

B-12 Encourage the news media to provide coverage on alcohol issues commensurate with the nature and scope of the problem.

Public Campaigns

B-13 Institute and sustain high visibility public information efforts about issues related to drinking and driving.

Strategy

1. *Continue to expand and publicize existing programs already in place, e.g., alcohol awareness week.*
2. *Create a coalition of public and private agencies to provide focus and promote coordination of drinking/driving campaigns.*
3. *Increase State and local levels of public funding, as appropriate, and encourage private sector involvement.*

Regulatory Responsibilities

B-14 Consider moving the responsibility for regulation of the alcoholic beverage industry to the Food and Drug Administration, DHHS.

Research

B-15 Fund research to determine –

B-15.1 The effect of alcohol promotion, advertising, and other media content on different populations, e.g., underage youth, high-risk audiences, and juries.

B-15.2 Which specific advertising and entertainment features contribute to higher versus lower levels of excessive drinking and alcohol-impaired driving.

B-15.3 The most effective media campaign strategies, as part of a comprehensive intervention effort to reduce drinking and driving.

B-15.4 Whether a relationship exists between the amounts of alcohol-related advertising and editorial content in magazines.

B-15.5 The potential effects of informing audiences about compensated inclusion of alcohol products in theatrical motion pictures.

B-16 Provide a research testing service to measure target audience reactions to:

- public information campaign messages voluntarily submitted prior to dissemination; and
- new alcohol advertisements appearing in the mass media.

B-17 Assess the effects of these recommendations, as implemented, on alcohol problems.

Strategy

1. *Federal and State Government agencies should allocate funding for this research.*
2. *Private foundations should increase funding in this area.*
3. *Private sector organizations should increase funding in this area.*

Panel C

Epidemiology and Data Management

Chair: M.W. Perrine, Ph.D.
Background Paper: Carl E. Nash
Recorder: LCDR Marlene Cole
Panel Members: Allan Meyers, Ph.D.
Richard Waxweiller, Ph.D.
Darryl Bertolucci
John Donovan, Ph.D.
Carl Soderstrom, M.D.
Lawrence A. Greenfeld
Ted Doege, M.D.

The Panel on Epidemiology and Data Management submits recommendations regarding drunk driving data collection and data management and on drugged driving.

In the area of data *collection*, we recommend the following.

C-1 Require State and local police to obtain the blood alcohol concentrations (BAC) of all drivers and nonmotorists involved in fatal and serious injury motor vehicle crashes.

C-2 Obtain and record a BAC for all patients of appropriate age admitted for treatment of acute injury for the purposes of:

- patient diagnosis and clinical management;
- aiding in the diagnosis of alcohol abuse; and
- providing data to document the epidemiology of alcohol in all types of injury.

C-3 Develop a research agenda to identify the range of factors that inhibit the uniform collection of blood alcohol data. There appear to be institutional, professional, and economic barriers to the collection of blood alcohol data on people involved in motor vehicle crashes. To carry out the first set of recommendations, these barriers will have to be understood and addressed.

Strategy

Implementation of recommendations C-1 and C-2 are addressed in C-3, the development of a research agenda. The members of the epidemiology panel are to prepare a draft research agenda and submit to Dr. Perrine, Workshop Chairperson, for compilation. This material will be forwarded to the Surgeon General's office. This panel requests that the Surgeon General:

1. *define such a research agenda by April 1989,*
2. *assign this agenda to one or more Agencies, and*
3. *assign a 1-year timeframe for completion of the research.*

C-4 A voluntary standards organization should establish a consensus committee to set standards for definitions, questions, data elements, and methodologies used in research and data collection relating to drunk/drugged driving.

Strategy

The panel advises the Surgeon General to invite an organization to establish a consensus committee charged with the task of assembling an initial set of definitions within a year.

To obtain improved exposure data, the panel recommends the following.

C-5 Change policies to facilitate periodic roadside surveys to collect valid and complete data on the BAC of an appropriate sample of all drivers using public roads.

C-6 Conduct roadside surveys at enforcement checkpoints and other sites to collect data on BAC at all levels starting at zero.

C-7 Develop policies and procedures to ensure that accurate alcohol data are obtained for commercial motor vehicle operators using the highways.

C-8 Encourage development and testing of a valid, cost-effective surrogate for roadside surveys.

Strategy

1. *A policy needs to be generated to encourage and facilitate the roadside surveys that receive the endorsement of the Surgeon General.*
2. *A change in State and local policies is needed to facilitate the collection of data, which include zero BAC.*
3. *Commercial motor vehicle operators should undergo drug testing during roadside data collection when feasible.*

C-9 Determine more accurately the characteristics of drunk drivers and identify the contributions of those characteristics to the risk of serious motor vehicle crashes.

Strategy

Focus should be placed on those characteristics of drunk drivers amenable to intervention.

A major purpose of collecting epidemiologic data is to indicate possible points of intervention. Therefore –

C-10 Evaluate all drunk driving countermeasures – whether they apply to people, vehicles, or environment – for effectiveness, safety, acceptability, and cost.

In the area of data *management*, we recommend the following.

C-11 Develop standards and procedures for keeping and linking records relating to drunk/drugged driving and related offenses, from arrest through prosecution, conviction, and disposition. These should be adopted by all jurisdictions in the country.

C-12 Convene a study committee to:

- inventory existing routinely collected data bases,

- inventory data bases that have the potential to provide useful information,
- assess the validity, completeness, and comparability of these data bases and the ability to access and link them, and
- identify needs for additional data that should be routinely collected.

C-13 Develop a central locus for assembling relevant drunk driving data bases and describing their contents to potential users. The panel on epidemiology finds that the resources applied to data collection and analysis on alcohol and motor vehicle crashes is minuscule compared to losses from crashes involving alcohol. To achieve a significant improvement in motor vehicle safety will require substantially more and better information, and the commitment of substantially more resources to epidemiologic research on drinking and driving.

Strategy

The Surgeon General should ensure that this study committee be assembled with government and nongovernment representation. The optimum size of this ad hoc committee would be 12 members. This committee would be in existence within 1 year and receive funding on a prorated basis from the Federal Agencies sponsoring this workshop. The committee would provide a written report on the tasks outlined in C-12 and C-13 to the Surgeon General and the Agencies involved in this workshop.

Considerably less is known about drugged driving that about drunk driving. Therefore –

C-14 Define a research and data collection agenda to determine the nature and magnitude of the drugged driving problem.

Strategy

The Surgeon General should convene a workshop on drugged driving in 1989.

Panel D

Education

Chair: Patricia Waller, Ph.D.
Background Paper: Bruce Simons-Morton, Ed.D., M.P.H.
Recorder: Joan White Quinlan
Panel Members: Katherine Armstrong, Ph.D.
Michael Goodstadt, Ph.D.
Elizabeth A. Weaver
Delores Delaney
John Harvey
Alvera Stern, Ph.D.
David Sleet, Ph.D.
David Anderson, Ph.D.

The Education Panel recognizes that driving while intoxicated (DWI) is a leading cause of death and disability and *the* leading cause of death among young people. A variety of efforts are needed to address this problem, and education plays an important role.

The private and public sectors have a shared responsibility to educate and protect the public against impaired driving. Health, alcohol, and traffic safety communities must work together in designing and implementing effective education and behavior-change programs.

Educational efforts should be designed to help overcome DWI social acceptability and reduce myths surrounding DWI. DWI information should be factual and current. It should help the public, professionals, and decisionmakers understand what they can do to help change DWI policy and practices.

Education leading to effective policy development at Federal, State, and community levels is a critical step in this process.

Education does not occur in a vacuum. It must be part of a comprehensive public health approach to DWI that includes social and environmental action.

Properly designed and implemented educational efforts can influence knowledge, attitudes, and practices and are cumulative and additive in their effects.

The goal of education programs for those under 21 years of age should be to promote no use of alcohol (or other drugs). For those 21 and over, educational efforts should promote the concept of low-risk choices – choosing not to drink in high-risk situations.

Educational interventions must be undertaken within worksites, the family and community, health care agencies, and schools. Within these settings, targets include the general public, at-risk individuals, and decisionmakers.

Most DWI educational programs are insufficiently based in theory and should reflect current knowledge in the fields of social psychology, mass communication, and organizational change.

Research should be ongoing and should help to identify effective education and promotion strategies needed to reduce DWI in specific community settings. Once identified, these strategies should be widely disseminated.

Objectives

The Education Panel offers the following objectives for all drinking and driving education programs.

- To decrease the frequency of drinking in association with driving
- To reduce the frequency of drinking in other traffic-related situations (motorcycles, bicycles, boats, snowmobiles, etc.)
- To reduce the average blood alcohol concentration among drinking drivers to less than 0.05 percent, and promote zero tolerance as the standard for the public
- To decrease the frequency of riding with drinking drivers
- To promote social norms that do not tolerate drinking and driving
- To promote personal responsibility for discouraging drinking and driving among friends and acquaintances
- To promote support by the general public and actions by decisionmakers for public policy, environmental control, and environmental protection and programs regarding drinking and driving

General Recommendations

The Education Panel offers the following general recommendations.

- Drinking and driving education should be considered an essential component of a comprehensive public health approach to DWI reduction.
- Drinking and driving education should be integrated into all health promotion/risk reduction programs.
- Drinking and driving information should be included in health professional training.
- All drinking and driving public information and education programs should be based on sound learning theories, as well as social marketing and communication strategies.
- All decisionmakers should be educated about the development and implementation of effective policies to prevent drinking and driving.
- The impact of alcohol beverage advertising should be balanced with fair time counteradvertising.

Specific Recommendations

Policy Education

D-1 Develop model policies for worksite, school, health care, community, and recreational settings regarding alcohol.

Strategy

Set up an advisory group to review existing policies and to identify current promising policies. Convene a consensus panel to select policies for each setting.

D-2 Develop a decisionmaker's guide to drinking and driving policy development.

Strategy

Using the policies selected by the consensus panel, develop and publish a manual. Subsequently, conduct training for local, city, and State decisionmakers.

D-3 Develop guidelines for training education, health care, and other professionals.

Strategy

Provide small grants to professional organizations to develop training manuals for their membership to reduce drinking and driving and consider this training as part of the requirements for maintaining their certification.

D-4 Develop guidelines for the sponsorship, promotion, use, and sale of alcoholic beverages in relation to lifetime leisure activities (recreation, sports, drinking establishments).

Strategy

Develop a guide for communities on environmental and social policy including responsible recreational events; make camera-ready copies available and develop a distribution list and mechanism for distribution.

Encourage State and local governments to implement environmental controls, such as eliminating happy hour promotions, banning alcohol advertising on billboards and at fairs, and posting warning labels where alcoholic beverages are sold.

D-5 Educate decisionmakers about how to implement incentives regarding the parental supervisory role.

Strategy

Conduct research to determine if analytical skills are permanently impaired by preadolescent and adolescent drinking.

Have parents educate and encourage other parents to teach their children not to drink and drive, as well as inform decisionmakers about the important role parents can play.

D-6 Increase revenues for drinking and driving programs by raising taxes on alcoholic beverages and/or increasing fines for a DWI offense.

Strategy

Develop model legislation for use by legislators and track legislation as it is being passed.

Have exhibit booths at annual conferences of mayors, governors, and city managers. Educate these target groups by making information available.

D-7 Expand warning labels on alcoholic beverages.

Strategy

Provide research findings to citizen activist coalitions on the wide range of health effects from alcohol consumption and encourage them to work toward more comprehensive warning labels.

D-8 Encourage stronger law enforcement and adjudication of existing drinking and driving laws.

Strategy

Establish a monitoring system to identify areas having exemplary, as well as poor, enforcement and adjudication of drinking and driving laws. Regularly publish the names of those cities and counties having the "best" enforcement and adjudication rates, as well as the 10 "hot spots."

Develop a guide for State Attorneys General identifying liability issues, encouraging dram shop liability, and providing guidance on responsible business practices.

Professional and Provider Education

For health care providers, schools, worksites and communities (law enforcement, elected officials, parents, clergy, media, etc.) –

D-9 Increase the level of knowledge and awareness about drinking and driving prevention.

Strategy

Distribute copies of the recommendations to a wide variety of national groups and organizations in the following areas: education, highway safety, judicial and law enforcement, driver licensing, public health, and medical. Ensure that associations not represented at this workshop receive copies of the recommendations. When the recommendations are distributed, include a list of recipients.

Encourage these groups and organizations to use the recommendations to (1) create a State Task Force on Impaired Driving or (2) motivate existing State Task Forces.

Include a diversity of State and local groups and organizations in implementing these recommendations.

Provide accurate information on drinking and driving to science and health editors and writers, as well as free-lance writers, for inclusion in health and scientific journals.

D-10 Increase the number of professionals who receive education about drinking and driving prevention as well as the importance of modeling and how their behavior affects the public.

Strategy

Provide small grants to professional organizations to develop training manuals for their membership to reduce drinking and driving, and consider this training as part of the requirements for maintaining their certification.

Work with textbook editors and publishers to ensure that accurate information is included and updated regularly.

Request that relevant groups and organizations monitor alcohol education materials for accuracy and messages.

Work with curriculum developers in health programs to include and update materials on impaired driving, including the nature of alcohol advertising and marketing.

Provide information on how to access health promotion funds that could be used for reducing impaired driving.

D-11 Include training in professional practices for professionals and providers.

Strategy

Provide small grants to professional organizations to develop training manuals for their membership to reduce drinking and driving and consider this training as part of the requirements for maintaining their certification.

D-12 Educate on how to overcome barriers to implementing policies and programs.

Strategy

Publish a guide on how communities can overcome barriers to policy changes.

D-13 Provide education and training in support of community coalition development to citizens, traffic safety, public health, and medical professionals.

Strategy

Give widespread recognition and utilization to systems-based, community development approaches, i.e., the Centers for Disease Control's program entitled PATCH - Planned Approach to Community Health.

Expand the scope of existing coalitions to include impaired driving issues and strategies, i.e., Traffic Safety Now and the Safe Kids Campaign.

Have NIAAA's Chief Executive Officer Task Force form a subcommittee on drinking and driving to explore ways corporations can reduce drinking and driving.

D-14 Provide incentives to increase and recognize those professionals and providers who develop and implement effective and innovative programs.

Strategy

Create a well-recognized award program in the Departments of Transportation and Health and Human Services to recognize effective and creative impaired-driving programs conducted by private/public sector partnerships.

Public Education

D-15 Increase the quality and quantity of exposure of the public to how they can reduce drinking and driving by:

- affecting policy
- reducing tolerance for drinking and driving
- advocating for legislative changes

- perceiving how their behavior affects those around them

Strategy

Prepare a Surgeon General's letter on impaired driving myths and facts. Facts would include: problem of crash involvement, the difference between impaired and drunk driving, gender/individual differences, genetic and biological vulnerability, the effects of alcohol consumption on sexuality and weight, the temporary effects of alcohol consumption (i.e., "hangover effect"), the risks for impaired pedestrians, and the concept of "low-risk" choices. Myths would include: even though alcohol consumption is legal for adults, it is not necessarily safe; driving performance is not improved by consuming alcohol; beer is an intoxicating beverage; it is dangerous to be able to "hold your liquor"; and a 12 oz wine cooler contains more alcohol than a can of beer.

Prepare a strong statement for the Surgeon General to issue on encouraging the nonuse of alcohol by those under age 21. The message should include the association with health problems, especially when combining alcohol with other drugs.

Develop a plan for disseminating the workshop recommendations. Document current Federal drinking and driving activities.

Have the Surgeon General hold a press conference to disseminate the above information to the public.

Use motivational techniques to help people maintain a commitment to not drink and drive and to encourage communities to maintain a long-term commitment to reduce the problem.

Ensure that information on drinking and driving is included on electronic bulletin boards for use by the media, educators, science writers, etc., in informing the public.

Print the names and BACs of convicted drinking drivers.

Work with television programmers and writers to include messages in the electronic media on drinking and driving.

Provide the automobile industry (manufacturers, dealers, etc.) with information they can provide to customers.

D-16 Base public information campaigns on effective social marketing theories.

Strategy

Conduct research on the knowledge, attitudes, and practices of the American public and develop materials and messages accordingly.

Market drinking and driving messages, theories, and strategies in an easy-to-read manner. Provide materials that contain graphics and are written for appropriate reading levels. Request support from the private sector in developing these materials.

Have NIAAA and other relevant Institutes compile a review of their most recent research and grant findings. Provide this information to science writers and other writers to use in developing public information articles.

D-17 Educate the public (1) concerning the effects of marketing and advertising by the alcohol beverage industry regarding alcohol consumption and (2) about the relationship between increased taxes on alcohol beverages and reduction in drinking and driving crashes.

Strategy

Provide small incentive grants to associations to have the public identify ways to overcome the alcohol beverage industry's advertising and marketing practices.

Use findings from NIAAA-sponsored studies and grants on the relationship between increased taxes and a decrease in motor vehicle crashes to inform the public.

D-18 Educate the public about the impairing effects of low levels of alcohol on driving performance.

Strategy

Conduct research to determine the length of time that low, moderate, and high doses of alcohol affect performance of adolescents, young adults, adults, and older individuals.

Research Needs

D-19 Conduct research on the relationship between media messages and "traditional" classroom instruction.

D-20 Test and replicate social marketing strategies with targeted audiences.

D-21 Conduct ongoing systematic evaluation of the alcohol beverage industry's advertising marketing and promotion efforts and their relationship to alcohol consumption and drunk driving; explore the relevance of these efforts to educational initiatives.

D-22 Conduct research on effective community approaches to drinking and driving prevention.

D-23 Reexamine drinking and driving education to improve its effectiveness.

D-24 Translate research findings for practitioners and determine the most effective means for disseminating this information.

D-25 Determine the most effective combination of approaches for a community program to reduce impaired driving.

D-26 On an ongoing basis, expand and maintain existing national data bases on knowledge, attitudes, and practices regarding drinking and driving.

D-27 Monitor and assess implementation of these recommendations.

Strategy

Coordinate the research plans for agencies such as NIAAA, NHTSA, CDC, and NIDA, in particular, CDC's Injury Prevention Research Centers.

Request that the Transportation Research Board study these recommendations and develop its own research implementation plan.

Expand funding for research from existing sources, e.g., request that Congress include drinking and driving research in the Omnibus Drug Bill.

Panel E

Judicial and Administrative Processes

Chair: The Honorable James D. Rogers
Background Paper: James Nichols, Ph.D.
H. Laurence Ross, Ph.D.
Recorder: CDR Gloria Ames
Panel Members: William Hayes
Ray Larson
Joel Watne
Paul Kamenar
Kay Chopard

The judicial, prosecutorial, and administrative functions play a very important role in dealing with the subject of this workshop, but cannot be the total solution. Responsible action is needed from citizen support groups, community leaders, the hospitality industry, manufacturers of alcoholic beverages, and automobile manufacturers.

The judicial, prosecutorial, and administrative functions should act to change the behavior of those who are apprehended for drunk driving and those who are not apprehended.

The panel makes the following recommendations.

E-1 Apply "hard" driver's license revocation (i.e., no exceptions for hardship, occupation, treatment, or other reasons) for a minimum of 90 days for first offenders. The time of revocation should be substantially increased for repeat offenders.

Most jurisdictions have some form of "Limited Driver's License" process. This nullifies the beneficial results of the loss of the driving privilege.

In jurisdictions with "hard" license revocation, it has been found that very few people have lost their jobs, and none have been unable to attend treatment or aftercare programs.

E-2 Increase emphasis on reducing driving without a valid driver's license due to driving while under the influence or other alcohol-related charges, as this is an intentional offense. The panel recommends singly or in combination:

- License plate confiscation (License plate confiscation should be used by judges as a condition of pretrial release. Administrative hearing officers should also use license plate confiscation. The judge may consider the issuance of special plates.)
- Incarceration of the violator
- Impoundment of the vehicle used in the violation

E-3 Do not reinstate driver's licenses lost for an alcohol-related offense without the offender providing proof of compliance with an alcohol assessment and any court order.

E-4 Make the following sanctions mandatory in addition to "hard" license revocation.

- *Fines*. The monies should be used to fund educational programs on the use of alcohol and driving and to compensate victims.
- *Jail* This may be stayed for first-time offenders on compliance with court-imposed conditions. The stay should be for at least 2 years.

E-5 Discourage plea negotiations. All negotiations shall be placed on the record, and all proceedings shall be in open court.

E-6 Make driving illegal per se at 0.08 blood alcohol concentration. All presumptions of not being under the influence of an alcoholic beverage or nonintoxication should be repealed.

This still recognizes that driving with any alcohol concentration presents an increased hazard to the driver and the public.

E-7 Encourage States and the District of Columbia to regularly review their existing implied consent laws to determine if they are meeting their desired goals. The penalties associated with such laws should be sufficiently more severe than penalties associated with failure of a chemical test or of an alcohol-related conviction to provide an incentive to submit to a chemical test.

E-8 Adopt administrative per se driver's license laws. In this type of a procedure, the offender's driving privileges can be revoked for driving with a blood alcohol concentration at or above a set level.

E-9 Give prosecution and defense the same rights of appeal. (In some jurisdictions, the prosecution has no right of appeal.)

E-10 Have an alcohol assessment, by a competent certified person, selected by the court, made available to the judge prior to sentencing of all defendants in alcohol-related driving offenses.

E-11 Provide sufficient funding for judges, prosecutors, and administrative hearing officers for continuing education in alcohol and related driving offenses. This funding should not only allow for training within the State but out of State at such locations as the National Judicial College.

E-12 Recognize the rights and roles of victims and adopt the *Statement of Recommended Judicial Practices* which were adopted December 2, 1983, by 102 judges – two from every State and the District of Columbia – at a Conference at the National Judicial College. *

"Giving victims the right of allocution at sentencing hearings has not resulted in any noteworthy change in the workloads of either the courts, probation departments, district attorneys' offices or victim witness programs." **

E-13 Admit evidence from the criminal proceedings in any resulting or related civil proceedings.

E-14 Establish a uniform State and national record system for all moving traffic violations.

- Reporting to both State and national systems shall be mandatory with sanctions for noncompliance.

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*Copies of the *Statement of Recommended Judicial Practices* may be secured from National Institute of Justice/NCJRS, Box 6000, Rockville, Maryland, 20850.

**National Institute of Justice, Executive Summary, *Victim Appearances Under the California Victims' Bill of Rights*. Page 59.

- Each State and the District of Columbia shall participate in the national system.
- Each State and the District of Columbia shall regularly audit and review their systems for compliance.
- The national system shall be regularly reviewed for compliance and uniformity.

E-15 Apply judicial, prosecutorial, and administrative penalties to parties, other than the driver, who contribute to the offense, such as the legal or illegal providers of the alcoholic beverages.

E-16 Develop self-sufficient systems and programs for prosecution, adjudication, sanctioning, and treatment of alcohol-related driving offenders. (Use fines, fees, and alcohol consumption taxes.)

E-17 Use existing special programs and further devise others for juvenile drinking drivers. They must use both education and comprehensive actions of the court centered around their driving privilege.

E-18 Develop programs for the 18- to 26-year-old group for both education and sentencing procedures. This age group is involved in a disproportionate number of alcohol-related driving offenses.

The panel realizes that some recommendations may work well in all jurisdictions and others may be less effective in some. Certainly, no jurisdiction has solved the problem, and no jurisdiction should sit back and be complacent. Each jurisdiction should regularly reexamine its own methods and also look at those used by others. All too often the statement is made that "We have the toughest laws in the country." This may be true, but tough laws are meaningless if they are not enforced and implemented by the courts, prosecutors, administrative hearing officers, and law enforcement agencies.

Panel F

Law Enforcement

Chair:	Maury Hannigan
Background Paper:	John Lacy, Ph.D.
	Robert Voas, Ph.D.
Recorder:	LTJG Dorothy Stephens
Panel Members:	Peter O'Rourke
	Dean Gerstein
	Ralph Hingson, Sc.D.
	Johnny Mack Brown
	John Moulden
	Howard P. Patinkin
	James P. Donovan

Driving Under the *Influence* (DUI) enforcement is a short-term control over a much more fundamental problem – public attitudes toward alcohol abuse. This public health problem must be addressed in the long range by effective education programs beginning in our primary schools and extending to adult programs, mass media, advertising, and regulation. This will require a concerted and cooperative effort among agencies concerned with health, education, transportation, commerce, and the administration of justice. Enforcement can contribute to this longer range process through well-publicized programs enforcing community standards regarding drinking and driving.

We recommend six high-priority measures that would make DUI enforcement more efficient and effective in the apprehension of DUI offenders. The goal of enforcement is deterrence. The recommended measures are likely to increase the volume of DUI arrestees and thus affect other components of the DUI control system – notably the courts, corrections, and licensing agencies.

The Law Enforcement Panel of the U.S. Surgeon General's Workshop on Drunk Driving makes the following recommendations.

F-1 Develop a comprehensive DUI training program for chief executives of law enforcement agencies. The graduates of the program should –

- Understand the specific nature and extent of the DUI problem;
- Understand state-of-the-art strategies and technologies of DUI enforcement;
- Be able to implement and use DUI data systems in their jurisdiction; and
- Be able to identify and effectively draw on relevant organizations and resources at the local, State, and national level.

Strategy

An executive training program should be developed by NHTSA, in conjunction with the International Association of Chiefs of Police (IACP) and the National Sheriffs Association (NSA). This training program should be disseminated nationwide to all chief law enforcement executives through the auspices of IACP and NSA.

- *Timeframe: development of program in 1989*
- *Timeframe: implementation of program in 1990 and beyond*

F-2 Apply innovative techniques of DUI enforcement such as passive sensors, preliminary breath testing (PBT) devices, BATmobiles (mobile breath alcohol testing units), drug recognition experts, and horizontal gaze nystagmus. Adopt appropriate enabling legislation where needed and train field officers and court personnel in appropriate evidentiary use and interpretation of these techniques.

Strategy:

A program should be established by NHTSA in conjunction with the National Bureau of Standards and the IACP to certify passive breath sensors for DUI enforcement.

Such a program shall include minimum standards for these devices, a quantification test, the development of a certified products list (CPL), and a quality-control sampling procedure. This program should be established in consultation with the NSA.

- *Timeframe: develop standards and CPL by January 1990.*
- *Timeframe: establish quality-control procedures by January 1991*

NHTSA, IACP, and NSA should educate law enforcement personnel in the use of devices (passive sensors, PBTs) and techniques (drug recognition experts, horizontal gaze nystagmus) and encourage their application and wide utilization.

- *Timeframe: begin implementation by calendar year 1989 and beyond as necessary*

NHTSA should also continue to evaluate devices and techniques through appropriate research.

- *Timeframe: ongoing*

F-3 Implement DUI checkpoints in those jurisdictions currently not using this technique, and expand their use in jurisdictions currently using them. To enhance the efficiency and effectiveness of checkpoints, we advocate the use of BATmobiles, passive sensors, and/or PBT devices and the adoption of legislation to permit sobriety checkpoints where necessary. These techniques should be used in accordance with the standards set forth by the United States Supreme Court and/or respective State Courts. Also, research data on the effectiveness of checkpoints should be broadly disseminated.

Strategy

The IACP and NSA should conduct leadership workshops on the conduct of single and multiple agency checkpoints during their 1989 annual conferences, to be followed by a series of workshops across the country to disseminate this information to line supervisors, with the assistance of each State's Governor's Highway Safety representative.

- *Timeframe: Calendar year 1989 and continue thereafter*

Where checkpoints are currently not being used, consult with the attorney general of that State for the purpose of meeting the constitutional requirements of that State, relative to the application of checkpoints or drafting necessary constitutional/legislative amendments to allow their application.

- *Timeframe: immediate*

F-4 Make blood alcohol concentration testing mandatory for all drivers involved in fatal and serious injury traffic collisions, both for data collection and prosecution, as appropriate.

Strategy

NHTSA should develop and disseminate model legislation for application by the states.

- *Timeframe: during calendar year 1989*

F-5 Adopt administrative license suspension and revocation procedures for DUI that are designed to keep to a minimum the time required for field officers to carry out their testifying functions.

Strategy

The Surgeon General should write a letter to the governors of those States that currently have no administrative license suspension legislation (administration per se) to encourage such legislation.

- *Timeframe: immediate*

F-6 Maximize public perception of the risk of arrest and punishment for driving under the influence through law enforcement public information and education efforts. These efforts are essential to the deterrent effectiveness of DUI enforcement.

Strategy

To deter drunk driving through enforcement, public information and education (PI&E) efforts must be tailored to the specific activities of the enforcement agency and thus must be developed at the local level. NHTSA should develop and disseminate basic PI&E resources and materials for training in their adaptation and use at the local level. NHTSA should work with the Governor's Highway Safety Representatives (NAGHSA), IACP, and NSA to conduct training to foster the use of these materials at training sessions sponsored by these organizations.

- *Timeframe: no later than 1989, annual IACP, NSA, and NAGHSR conferences, and ongoing*

Panel G

Transportation and Alcohol Service Policies

Chair:	Joseph Gusfield, Ph.D.
Background Paper:	Robert Saltz, Ph.D.
	Robert Apsler, Ph.D.
Recorder:	Michael Impellizzeri
Panel Members:	William Scott
	Perla Niguidula
	James Peters
	Terry Pence

The Transportation and Alcohol Service Policies Panel was charged with reviewing the role of alternative forms of transportation, such as taxis and designated driver programs, and their ability to reduce the problem of drinking-driving. The panelists were further charged with reviewing and recommending policies that might also have a direct bearing on the drinking-driving event, such as drinking establishment patterns, server education, and employee assistance programs.

The panel focused its attention on the environment of transportation opportunities and on social and commercial practices for serving alcohol. One element common to both concerns was the aim of disengaging prevention of the driving act from the drinking act. We recognize that policies to affect transportation and server practices have received scant attention in public health circles. Among alternative forms of transportation, the support of and information about designated driver, safe ride, and employee assistance programs are important adjuncts to public transportation and private commercial transportation.

No less important are the practices of beverage service establishments in the prevention of drinking-driving. Training servers and other beverage service personnel to monitor and recognize patrons at risk should be a significant aspect of beverage service enterprises. The panel further recognized that commercial beverage serving establishments have an obligation to be concerned about safe transportation for patrons whose drinking creates a risk to themselves, passengers, and/or pedestrians. The role of such enterprises, as well as social hosts, is vital to a successful program to curb drinking-driving.

The panel was also convinced that the cogency and feasibility of such service programs and alternative transportation forms depend on particular local conditions of servicing agencies and transportation facilities. They also require the cooperation and support of community agencies and groups. The need for implementing programs at the local and communal level was stressed. The purpose of the special community task force recommended below is to create community standards for serving practices by social hosts and commercial establishments so as to prevent drinking-driving and ensure compliance with existing local rules and regulations. In addition, the task force would examine and encourage improvements in alternate systems of transportation. Such task groups are important since, in the past, transportation and server practices have been overlooked in public health prevention efforts.

The panel recognizes the possible danger that programs to provide safe transportation for drinkers may encourage drinking and risk exacerbating other alcohol problems. Servers and others should be aware of these risks and not view the recommendations here as encouraging any lessening of other actions to prevent problems related to the use of alcohol.

Community Focus

G-1 Each community should form or expand a task group to review and implement, in a systematic way, interacting policies and priorities as to alcohol service and alternative transportation. Such groups should include, but not be limited to, representatives of public transportation, taxi associations, alcohol and drug abuse authorities, traffic safety professionals, hospitality industry associations, zoning authorities, licensing agencies, citizen support groups, insurance companies, alcohol beverage authorities, educational institutions, and other public and private sector groups.

The agenda for this community effort includes the recommendations in the three broad areas of transportation, server practices, and implementation strategies.

Transportation

Alternative transportation plans enable impaired drinkers to reach their destinations without risking harm to themselves or others.

G-2 The designated driver program should be a community-wide approach addressing all types of drinking situations at all hours and involving drinkers, commercial establishments, social hosts, transportation alternatives, and special events, including sports events. Servers and social hosts must not allow guests or patrons to become intoxicated and thus become a danger to themselves and others, not only through drinking-driving but in other dangerous situations as well. Designated driver programs should incorporate these features:

- The designated driver does not drink any alcoholic beverages.
- Establishments or social hosts provide easy availability of and promote food and alcohol-free beverages.

G-3 Information describing the relationship among alcohol consumption, blood alcohol level, and risk of injury or death should be provided to all individuals obtaining a new or renewal license for operating any type of motor vehicle.

G-4 The hours of drinking establishments should be consistent with the hours of alternative transportation.

G-5 Improving the effectiveness of taxi cabs and other similar forms of transportation as alternatives to drinking and driving should be explored with representatives of the taxi and other pertinent industries.

G-6 The automotive industry and the National Highway Traffic Safety Administration should continue to explore the viability of ignition interlocks and their incorporation in future vehicle design.

G-7 As a condition of obtaining a license to serve alcohol, including "one day" or special permits, an organization must develop and implement a specific plan to provide transportation for individuals who are impaired. Social hosts should do the same.

G-8 Programs to promote safe or alternative transportation (designated driver, safe rides, etc.) should keep in mind that problems related to impairment are not limited to driving automobiles, but also include operating motorcycles, bicycles, boats, snowmobiles, and airplanes; horseback riding; skiing; and even being an impaired pedestrian.

Beverage Service Policies and Practices

Alcohol service training and intervention refer to a broad set of strategies that address environmental reforms at two basic levels: the legal environment and the specific environment of the licensed establishment. The following policy considerations are recommended in order to achieve a consistent and effective prevention plan.

G-9 Crowd management: Licensees must maintain an adequate ratio of staff to patrons in order to monitor beverage sales, consumption, and patron behavior.

G-10 Promotions: Licensees should not encourage drinking as a focus of activity through promotions such as free drinks, drinking contests, discounted drinks, or multiple drink purchases (e.g., happy hours).

G-11 Training: Training appropriate to the type of facility should be made available to all managers and servers of alcoholic beverages, consonant with policies recommended here.

G-12 Written policies: Written policies must be posted and made available to all employees. These should be included and made a part of alcohol service training.

G-13 Food options: Food should be offered and available during all hours of operation.

G-14 Alcohol-free beverages: Alcohol-free beverages of all types should be promoted, offered, and made available where alcoholic beverages are sold.

G-15 Alternative transportation: Alternative transportation options must be made available wherever and whenever alcoholic beverages are served.

G-16 Serving sizes: All alcoholic beverage drinks should be served in single- serving standard sizes (e.g., 12 oz beer, 5 oz wine, or 1 ¼ oz 80-proof liquor).

G-17 Drinking on the job: Managers and staff are required to be alcohol-free while on duty.

G-18 Age identification: All patrons must produce a valid identification when a server is in doubt as to legal drinking age. Two forms of identification, one with a photo such as government identification or drivers license, are recommended.

G-19 Intoxicated patrons: Service to intoxicated patrons is prohibited.

G-20 Employee assistance programs: All alcohol service employees must have access to an employee assistance program.

Implementation and Incentives

It is recognized that responsible beverage service policies will be followed only in a legal, economic, and social environment that encourages them. The following specific recommendations serve to foster that environment.

G-21 Server practices require vigilant enforcement by regulatory agencies. Those agencies must be adequately funded to carry out that task. In addition, State regulatory agencies (Alcohol Beverage Control boards) should be reviewed to determine current practices, conflicts of interests, scope of authority, and enforcement of existing statutes. State legislatures should review the structure of their Alcohol Beverage Control agencies to emphasize their place in the promotion of public health.

G-22 State licensing regulations should be adopted to provide incentives, such as adjustment of licensing fees, for compliance with responsible server practices as recommended.

G-23 State legislatures should review and reform their dram shop (liquor) liability laws to maximize their preventive impact and to encourage business to adopt responsible serving practices. (The 1985 Dram Shop Act, *Western State Law Review* 12:417-517, 1985, can serve as a reference.)

G-24 States should review and certify server and manager training programs to assure that they accomplish prevention goals, and that the implementation of monitoring and certification of trainees is consistent with other vocational and educational programs in the State.

G-25 State insurance commissioners should review the rate-setting practices of liability insurance companies to ensure incentives for implementing risk management practices that minimize drinking-driving.

G-26 Adequate records of the site of the last drink should be kept in all cases of all officially reported alcohol-related incidents.

G-27 A representative from each of the 11 panels from this workshop should be selected to serve on the advisory board of the governmental interagency implementation group.

G-28 The final report of this workshop should be widely disseminated to a broad range of agencies and enterprises in public and private sectors, including regulatory agencies, insurance companies, trade associations, and local workshops and conferences such as Responsible Service Forums and Life Savers. Dissemination might include representatives from the implementing groups or from the workshop panels.

Panel H

Injury Control

Chair: John M. Templeton, Jr., M.D.
Background Paper: Julian Waller, M.D.
Recorder: CDR Richard J. Smith III
Panel Members: Martin R. Eichelberger, M.D.
George L. Reagle
Lawrence Schneider
Clark Watts, M.D.
Stephen Teret, J.D.
Katherine McCarter
Susan McLoughlin, M.S.N., R.N.
Chief Ricky Davidson

Injury control in drunk driving crashes requires examination of all components covering precrash, crash, and postcrash phases. These phases are not isolated but are intimately linked and interrelated. Injury prevention, injury control, and rehabilitation are inseparable parts of the treatment of alcohol abuse as a disease.

Specific concrete recommendations concerning injury control require direct and indirect approaches. Direct approaches concern prevention and treatment programs directed at the drinking driver as a perpetrator of injury. Indirect approaches concern programs directed at generic injury control, such as improved environment and behavior modification. Specific agencies and groups should be designated to help in the implementation of these approaches.

Injury Control in the Precrash Phase

H-1 Establish a program to integrate at the national, State, and local level highway safety personnel, highway engineers, maintenance personnel, and Federal and State Departments of Transportation. The program should –

- Stress injury prevention; and
- Foster technology transfer and implementation.

H-2 State governors: Develop a State-sponsored injury control coalition in each State comprising components from public health, education, traffic safety, judiciary, alcohol beverage control, communications, alcohol and drug abuse, and others, including balanced representation from grassroots citizen groups. The goals of the coalition should be to –

- Develop scientifically based education in injury prevention;
- Evaluate the program to measure the impact of education;
- Develop expertise in the correlation of injury severity scores on crash analyses;
- Identify high-risk roadway and environmental conditions, and to implement programs to correct these hazards; and
- Propose legislative initiatives designed to implement injury control.

H-3 State governors: Establish a Fatal Crash Review Panel in each State to include broad government and lay community representation. Its goals would be to –

- Produce better epidemiological reporting of the crash event by police and other authorities;
- Analyze causation, including multiple components of causation; and
- Recommend changes in action programs and environmental improvements such as signs, guard rails, etc.

H-4 Federal Department of Transportation: Establish a national safety feature checklist to be displayed on all new cars, highlighting objective scores concerning rollover potential, front end yielding, intrusion protection, fields of vision, etc. Mandated standards should include –

- A defined numerical range for each feature;
- The vehicle's specific score for each feature; and
- Consumer education programs for the public.

H-5 FCC and Congress: Develop and implement national policies and programs to lessen the use of alcohol seen in TV programs and feature movies.

H-6 FCC and Congress: Develop and implement national policies and programs for television that encourage positive lifestyle decisions such as routine buckling up, refusing to drive after drinking, and refusing to ride with a driver under the influence.

H-7 FCC and Congress: Establish national policies requiring equal time on television for public service announcements to advise the public of the hazards of alcohol.

H-8 NHTSA and State and local authorities: Develop demonstration programs to study the use of an interlock mechanism for the vehicle of anyone convicted of a DUI offense, and encourage the use of interlock mechanisms where proven effective.

Injury Control in the Crash Phase

H-9 Federal DOT: Promote enactment in every State of effective mandatory seatbelt laws to include "primary" enforcement with an adequate fine.

H-10 Federal DOT: Promote enactment of laws requiring airbags for drivers and front seat passengers as standard equipment.

H-11 Federal DOT: Promote the proper use of seatbelts and child safety seats in both cars and trucks. Stress–

- 3-point harness devices and improved technology for the protection of young children and low birth weight infants;
- Use of seatbelts even in vehicles with airbags; and
- Use of seatbelts in front and back seat.

H-12 Federal DOT, HHS, and Justice: Promote Federal policies that foster passage and maintenance of laws regarding mandatory helmet usage for all motorcycle riders.

H-13 NHTSA: Encourage industry and consumer programs to retrofit used vehicles with appropriate standard restraint devices and air bags.

H-14 Federal DOT, HHS, and Justice: Foster policies for mandatory fitting of large trucks with devices to prevent "underride."

Injury Control in the Postcrash Phase

H-15 Regionalize emergency medical service systems for the care of injured patients throughout the Nation.

- Establish guidelines for the care of injured patients in the prehospital, inhospital, and rehabilitation phases of care.
- Define regionalization guidelines for urban and rural areas.
- Develop "self-sufficiency" funding mechanisms such as a surcharge on DUI and other traffic violations.
- Develop new approaches to the financing of inhospital and rehabilitation care of indigent patients.
- Encourage public education in the structure and function of emergency medical systems.

H-16 DHHS and medical care professional groups: Develop and implement comprehensive rehabilitation programs for –

- Physical rehabilitation;
- Psychosocial intervention for the drinking driver; and
- Psychosocial rehabilitation of the victims and the family of the victim.

H-17 DHHS: Require BAC testing of all age-appropriate trauma victims of traffic-related injuries as a component of their medical care and management.

H-18 DHHS interacting with professional education organizations: Encourage the teaching of alcohol abuse and injury control as a public health issue in the curricula for health care providers.

H-19 States: Establish State trauma registries as an important part of a system to provide epidemiological data on death, disabilities, and costs to government and private resources.

Strategy

1. The Surgeon General should speak to the National Governor's Conference on what each governor can do to be a catalyst for administrative and legislative action on drinking and driving within each State.

- *Stress that injury is a preventible disease that requires a comprehensive approach to reduce* the human and financial cost of alcohol abuse and traffic-related injuries.

- Provide specific recommendations regarding improved vehicle safety, environmental safety, and injury prevention behavior.
- Support regionalization of injury care systems.

2. The Surgeon General and his office should also address the issue of drinking and driving through –
   - TV programs to educate the public (as done with AIDS);
   - A speech to the National Governor's Conference; and
   - A formal congressional hearing on the issue of drinking and driving.
3. The expertise and assistance of the following specific agencies and groups, as listed with the individual recommendations made by the injury control panel, should be enlisted:
   - Department of Transportation (NHTSA)
   - Federal Communications Commission
   - Department of Justice
   - Department of Health and Human Services (CDC)
   - U.S. Congress
   - State Departments of Transportation
   - State governors
   - State legal authorities
   - National Association of State Emergency Medical Services Directors
   - Medical care professional groups
   - Professional education organizations

Panel I

Youth and Other Special Populations

Chair: Galen Davis
Background Paper: Michael Klitzner, Ph.D.
Philip May, Ph.D.
Elsie Taylor
Recorder: CDR Phillip Smith, M.D.
Panel Members: Allan F. Williams, Ph.D.
Anthony J. Heckemeyer
Judy Zundel
Raul Caetano, M.D., Ph.D.

The several recommendations coming out of this Surgeon General's workshop may be effective in the general population. However, their effectiveness in ethnic minority groups will depend on the extent to which those interventions are tailored to the social and cultural identity of the specific ethnic group. Educational efforts, for instance, need to take into account the best media for dissemination of information as well as sensitive use of meaningful cultural symbols and images.

Drunk driving as a major public health problem affects youth and ethnic minority groups disproportionately. Specifically targeted interventions are needed. However, drinking and driving occur in the context of social norms, and cultural and regional trends are influenced by a multitude of other factors.

Drinking and driving among youth are frequently determined by their adult role models. Action at the school level should include more than just classroom prevention programs; a restructuring of the schools to improve student commitment to education and other social values is also needed. Concerted efforts should be aimed at improving self-concept, coping skills, and psychological adjustment.

The panel finds it difficult to provide specific recommendations for the special populations as distinct entities given the lack of data on the extent and correlates of the problems within each group. Therefore, the panel addresses those issues which the various ethnic groups have in common while highlighting the specific needs of certain ethnic groups. The following recommendations are based on this premise.

Relative to drinking and driving, we recommend the following programs, policies, and countermeasures.

I-1 Increase local, State,and Federal taxation on alcoholic beverages.

I-2 Increase justice system training.

I-3 Increase health care system training (i.e., cross-train disciplines where possible).

I-4 Increase the precision and consistency of present data collection systems (i.e., the Fatal Accident Reporting System (FARS), Multiple Cause of Death (MCD) file, death certificates) to collect and record data on drinking and driving among youth and at-risk minority groups.

> ### *Strategy*
>
> *Research funds should be allocated from NIAAA, probably the epidemiology branch. The request for proposals (RFP) announcement should include provisions for evaluation of data collection measures. Results should be realized within 2 years of implementation.*
>
> - *Timeframe: 3 months for RFP*
>   *9 months to go through review and award system*

I-5 Renew governmental regulatory guidelines on motor vehicle design and road safety.

I-6 Support community involvement through proven strategies and programs.

I-7 Restrict Federal highway funds if States do not institute administrative drivers license revocation for DUI.

I-8 Ensure swift and sure sanctions including making the sanctions reflect the magnitude of the problem.

I-9 Support enactment and enforcement of the 1987 National Commission Against Drunk Driving (NCADD) checklist of countermeasures.

Strategy

The National Highway Traffic Safety Administration should include the 19 countermeasures of the 1987 NCADD Checklist of Countermeasures in their 408 or 410 DWI countermeasure incentive programs. States must attain 80 percent of the countermeasures to be eligible for the incentive grant funds in the first year and 90 percent to be eligible for the second and subsequent years. Special grant incentives should be set up for 100- percent attainment.

- *This program should be implemented during the 1990 Federal fiscal year.*

I-10 Encourage comprehensive school-based K-12 alcohol and other drug abuse education and educator training programs of proven efficacy.

Strategy

By the end of 1990, NIAAA in conjunction with NHTSA should award a series of 5-year contracts to evaluate existing and/or innovative educational strategies and teacher-training efforts in terms of student behavioral outcomes, including age of first use, drinking patterns, DWI/RWID, and other alcohol-related problems.

Teacher training should be evaluated in terms of increased teacher awareness and knowledge, increased comfort with addressing alcohol-related issues, increased skill in implementing alcohol education, and increased skill in action planning of prevention for the school and community.

These contracts should be restricted to individuals and institutions who have not participated in the development of the programs and who have no financial interest in the dissemination of the programs.

I-11 Add funds for States to develop and evaluate innovative programs to prevent and reduce drinking and driving.

I-12 Encourage civil liability for intentionally providing, directly or indirectly, alcohol to minors.

I-13 Institute night driving curfews for beginning drivers under 18 years of age.

Strategy

- *NHTSA and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) should develop model curfew and 0.02 legislation by the end of 1990.*
- *States failing to adopt legislation conforming to these models by the end of 1992 should forfeit 10 percent of their Federal highway funds.*
- *By the end of 1992, NHTSA and OJJDP should have developed a training curriculum for local law enforcement officers in methods for identifying youth driving with low BACs.*
- *By the end of 1992, training of trainers conferences of the above curriculum should be held in all NHTSA program regions.*
- *By the end of 1992, NHTSA should award a 3-year contract to study the implementation of curfew and 0.02 legislation in all States.*

I-14 Increase the effectiveness of minimum alcohol purchase age laws.

I-15 Support mandatory seatbelt and motorcycle helmet laws and tie them to Federal highway funds.

I-16 Endorse the following recommendations of the National Commission on Drunk Driving report on youth:

- Administrative per se license suspensions should be statutorily permitted.
- Open container laws should be promulgated.
- Strict sanctions should exist for the sale or transfer of alcoholic beverages to youths under the legal drinking age.

Appropriate State agencies and State legislatures should consider legislation in the following areas.

I-17 Make classroom instruction on alcohol use, other drug use, and impaired driving mandatory for grades K-12; develop curriculum guidelines for each grade level.

Strategy

By the end of 1990, based on current knowledge, NIAAA in conjunction with NHTSA and Department of Education should develop guidelines for the selection and development of curricula and teacher-training methods by local school districts. This effort should be overseen by a national panel of experts who do not have a financial interest in any such programs.

NOTE: The Department of Education recently did this for drug education (including alcohol and tobacco), but there is little (if any) traffic safety thrust in their materials.

I-18 Encourage insurance rebates for drivers who take an approved driving risk-reduction course and have a clean driving record.

I-19 Include a mandatory component on alcohol use and impaired driving in driver education courses.

I-20 Discourage and/or limit beverage advertising and promotion that is directed at youth and minorities.

Strategy

Implementation should follow guidelines set up by the Advertising and Marketing Panel.

I-21 Endorse 0.08 BAC for DWI for all the population 21 years of age and older.

I-22 Endorse additional penalties over and above standard liquor law violations for those under age 21 with an 0.02 BAC or above.

I-23 Increase the enforcement of DUI laws relative to youth.

I-24 Increase professional and public information and education with regard to youth and other special populations. Proven strategies for prevention and remediation should be utilized. Emphasis should be placed on providing education to:

- Criminal justice personnel
- Health care professionals
- Educators

- Media professionals
- Other policymakers
- Other community leaders
- General public

Prevention media communications should take into account the appropriate culture and ethnic values when delivering their message.

I-25 Provide broad-based education of Indian tribal leaders and tribal members on policy options pertaining to alcohol.

Strategy

Require the Federal Agencies, in consultation with tribal communities, to develop strategies and plans for providing training on tribal specific and appropriate alcohol policy, e.g., to include personnel plans and policies, law and order codes and ordinances, school criteria and guidelines for education, diagnosis and treatment protocols in clinics and hospitals, and quality assurance plans for all treatment and rehabilitation programs.

The lead Agencies should be the Bureau of Indian Affairs (BIA), the Indian Health Service (IHS), NIAAA, NHTSA, etc.

- *Timeframe: By December 1990*

I-26 Increase Indian tribal law enforcement resources.

I-27 Expand traffic safety initiatives among Indian tribes.

I-28 Better utilize all sources of funding for education, recreation, and economic development. In particular, improve the socioeconomic status of the American Indian.

I-29 Support Federal/tribal/State cooperation for the establishment of detention and treatment centers for American Indians.

I-30 Improve social and cultural relevance in all programming and countermeasures.

I-31 For American Indians and Alaska Natives, seek support of tribal governments in the development of tribal resolutions for establishing policy actions on alcohol and operation of motor vehicles while under the influence of alcohol or other drugs.

Strategy

Amend P.L. 99-570, the Anti-Drug Abuse Act of 1986, to include incentives for tribal governments to formulate, execute, and enforce tribal-specific drinking-driving policies. Lead agencies: Bureau of Indian Affairs, Indian Health Service

- *Timeframe: December 1989 for amended legislation*

I-32 Develop and implement educational efforts to increase Hispanics' awareness of the risks associated with drinking and driving and to minimize drinking practices that lead to the consumption of higher volumes of alcohol per occasion. The target groups should be youth and males aged 21-39 years.

Strategy

A campaign should be developed nationwide with sponsorship from the Office for Substance Abuse Prevention (OSAP). Proposals should include carefully laid out plans for evaluations of campaign effectiveness.

- *Timeframe: 3 months to request proposals*
  4 months to proposal deadline
  2 months for review
  3 months for funding

I-33 Encourage special training of law enforcement officers to ensure nondiscriminatory DUI law enforcement.

I-34 Increase community recreational resources for black (and American Indian and Hispanic) youth.

Strategy

Funds may be allocated from State block grants or from OSAP for demonstration projects to set up neighborhood afterschool programs (e.g., music, drama programs; physical rehabilitation programs; occupational therapy programs; RAP and counseling programs).

- *Timeframe: 1 year for implementation of program*
  1 year for evaluation of success of programs
  look for results in 1992

I-35 Increase education of religious and other black community leaders about alcohol abuse and drunk driving.

Strategy

Include an appeal to religious leaders in their religious training programs.

Institute training curricula in ministerial schools.

Encourage black community leaders to set up neighborhood RAP sessions and programs.

Funds may be allocated from the Office for Substance Abuse Prevention or the National Highway Traffic Safety Administration.

- *Timeframe: One year setup time to implement programs; one additional year to see how or if the program works and produces results.*

I-36 Increase religious and community programs on alcohol and other drug abuse for blacks.

Research

In the area of research, the panel recognizes the extreme lack of data on specific minority populations with regard to drinking and driving. Descriptive data are needed on the following topics.

I-37 Describe effective alcohol and other drug abuse assessment tools for youth.

I-38 Identify effective support groups for youth and ethnic minorities returning from treatment.

I-39 Develop more precise and consistent measures to collect and record data on drinking and driving among youth and ethnic minority groups.

I-40 Determine the extent of drinking and driving among ethnic groups and the major demographic characteristics of individual members of the group who engage in such behavior.

I-41 Study the relationships among drinking patterns such as volume consumption per occasion and drinking and driving.

I-42 Investigate the attitudes toward drinking and driving among blacks/Hispanics/American Indians and how deviance is defined in the specific group.

I-43 Track arrest patterns to assess the question of the validity of high prevalence of DUI arrest among Hispanics as it relates to law enforcement practices.

I-44 Assess the effectiveness of first and multiple offender rehabilitation programs for youth and ethnic minorities.

I-45 Assess the effectiveness of driver's license sanctions associated with DUI convictions.

I-46 Assess the effectiveness of State laws that apply special license sanctions to youth for alcohol-related violations.

I-47 Evaluate the effect of liquor advertisements on the use of alcohol by minors.

1-48 The panel endorses the research questions listed in Dr. Perrine's background paper for the Epidemiology Panel as they relate to the different age groups in the minority population. (See background papers in separate volume.)

In specifically addressing the recognized research priority needs among American Indians, the panel makes the following additional recommendations.

I-49 In the area of epidemiology, research is needed on the following issues relevant to American Indians:

- Motor vehicle accidents based on geographic location, i.e., reservation/off-reservation, urban or rural sites
- Adult prevalence studies
- Survey of tribal alcohol policies
- Prevalence and level of impairment due to drinking and driving related motor vehicle accidents

I-50 In the area of social-psychological research, the following topics are of major importance to American Indians:

- Social-psychological studies of accident victims

- Attitudinal values and trends on drinking and driving

Strategy

Sponsorship for this research should come from the National Institute on Alcohol Abuse and Alcoholism. The mechanism for funding would be the basic RO1 grant funding of the extramural research program.

● *Timeframe:*	*February 1, 1989*	*Receive proposals*
	June 1989	*Initial review*
	October 1989	*Council review*
	December 1989	*Funding awarded*

I-51 Organize Federal coordination efforts to provide technical assistance to tribes regarding legislation implementation.

Strategy

Lead agencies: Bureau of Indian Affairs, Indian Health Service, NHTSA, NIAAA, etc.

- *Timeframe: December 1990*

I-52 Evaluate the effectiveness of policy execution by:

- Process evaluation – the stages of passing and implementing new policy; and
- Outcome measures – maintain accident (e.g., pregnancy, morbidity and mortality) data and alcohol (e.g., alcohol-related problems) data on a longitudinal database.

Strategy

Lead agencies: Indian Health Service, NIAAA, and private sector agencies.

I-53 Identify potential State, Federal, tribal, and private funding resources to implement tribal policy.

Strategy

Lead agencies: IHS, BIA, NIAAA

- *Timeframe: ongoing*

I-54 Develop interagency plans for prioritizing funding needs and technical assistance to meet tribal priorities such as:

- Public health planning
- Legal aid
- Media and information services
- Plans for dissemination of knowledge and sharing experience among local communities.

Strategy

Lead agencies: *BIA, IHS, tribal governments*

- *Timeframe:* *Plans by December 1990*
  Implementation: *ongoing as process evolves*

Panel J

Treatment

Chair:	Robert Niven, M.D.
Background Paper:	Vernon Ellingstad, Ph.D.
	Kathryn Stewart
Recorder:	CAPT Frank Hamilton, M.D.
Panel Members:	Loran Archer
	Harvey Siegel, Ph.D.
	Mark Goldman, Ph.D.
	Chauncey Veatch III
	James A. Farrow, M.D.
	John Allen, Ph.D.
	Jeri Shaw

Drinking and driving is a serious social and public health problem. Because of the enormous human and economic costs of drinking and driving on our society, the Panel on Treatment unanimously agrees that prevention and deterrence from drinking and driving are beneficial to all our society.

To improve traffic safety in the United States, the panel advocates the position that the safest blood alcohol level is 0.0 percent while driving and strongly recommends that the public service message should clearly state:

"If you are going to drive, don't drink."

The panel further advises that contrary or different messages, including "Know your limit" messages, should not be used.

From a public health perspective, all of the following recommendations are important. The panel opts to prioritize and rank order these recommendations according to which are most pressing and would enhance an effective response to this problem.

Prevention

Rehabilitative countermeasures, even if 100-percent successful, can have only a limited impact on traffic safety. The main approach to eliminating alcohol/drug-related injuries or fatalities must be focused on *prevention.*

J-1 Prevention measures, including both general and specific deterrence aimed at eliminating the behavior of driving while under the influence, are essential if major declines in mortality and morbidity are to be achieved. Prevention measures to be considered include traditional educational approaches and also public policy, enforcement, legal sanctions, and treatment measures. All messages, verbal and behavioral, should be clear, concise, noncontradictory, and focused on eliminating the joint activities of drinking and driving.

Strategy

The Surgeon General should immediately begin to promote a single public health message concerning drinking. This message should be "Don't drink and drive." Any contrary messages to this should be discouraged, including "Know your limits" messages.

The Surgeon General should ensure that all Federal Government promotional materials about drinking and driving be revised to reflect this position by the National Drunk and Drugged Driving Awareness Week in 1989 and should ask all voluntary agencies concerned with drunk driving to adopt an identical message and to discourage contrary messages.

The Surgeon General should convene a multidisciplinary task force to develop mechanisms to coordinate and increase prevention efforts and the recommendations from this and other task forces involved in the Surgeon General's Workshop on Drunk Driving.

The Surgeon General, acting through the Public Health Service, should create a variety of educational materials on drunk driving, which should be widely distributed (including through chemical dependency and other health care facilities and organizations) and incorporated in health care training didactic and clinical curriculums. The creation and dissemination of these materials should be completed by the National Drunk and Drugged Driving Awareness Week in 1989, or as soon as possible.

Treatment

J-2 Treatment should not routinely be used as a *substitute* for legal sanctions, but rather as an important component of a comprehensive traffic safety program.

Driving under the influence of alcohol or other drugs is a multifaceted problem for which there is no *single* effective treatment of any type (medical, legal, or punitive).

Treatment programs reduce driving related alcohol/drug incidents in those alcohol/drug dependent persons successfully treated, both those with and those without prior DUI offenses. Such programs are also a resource (as are other components of the health care delivery system) to further the dissemination of prevention materials.

A systematic approach to offenders using qualified personnel, appropriate standards, with oversight and quality assurance controls and without conflict of interest, is necessary to assess those persons who may benefit from one or a combination of treatment approaches. Such a systematic approach also needs ongoing evaluation to develop answers to relevant questions and enhance cost-effectiveness.

The traditional short-term, low-intensity educational programs that are broadly applied have been of limited effectiveness, and more intensive, longer term treatment options may be more beneficial (albeit more costly) and perhaps applicable to a selected population of offenders.

Strategy

Since a significant body of research supports the role of legal sanctions, in particular licensing sanctions, in reducing DUI recidivism, the Surgeon General should encourage Federal, State, and local governments to adopt and promulgate policies and practices that offer treatment in combination with licensing penalties and other sanctions proven to be effective and to discourage offering treatment in lieu of other known, effective sanctions.

Because of the wide variations in the structure and quality of assessment and treatment programs from State to State, the Surgeon General should promote and encourage States to develop mechanisms for high-quality diagnostic and referral procedures for DUI offenders and, specifically, should encourage the use of uniform diagnostic criteria and assessment instruments and treatment approaches, since this would greatly facilitate research studies on the effectiveness and cost-effectiveness of treatment.

Research

J-3 Develop a precise data base on the incidence and prevalence of driving under the influence in different population groups. Since drunk drivers comprise a heterogeneous population, specific demographic identifiers among this population need to be defined. Special populations (i.e., youth, minorities, and women) should be targeted in obtaining these data.

J-4 Intensively investigate the neuroscientific basis of high-risk, impulsive behavior and recidivism in this population.

J-5 Develop a scientific evaluation of treatment modalities and the combination of various treatment options for the heterogeneous group that makes up the drunk-driving population.

J-6 Evaluate the effectiveness of new, short-term low-intensity programs that have an impact on behavior from both an outcome and a process perspective.

J-7 Develop and evaluate newer treatment modalities in high-risk populations.

Strategy

The Surgeon General should encourage and foster research and the coordination of research activities of various U.S. Government Agencies involved in this field, to increase the quantity and quality of research focused on the drunk driving issues identified by the task force. A priority in this area, which requires an immediate increase in research, is the assessment of subpopulations who are already underrepresented in existing knowledge bases.

The Surgeon General should encourage States and local government agencies to develop uniform data collection, assessment, and treatment methodologies, since such information would provide an invaluable basis for the further development of public policy initiatives aimed at minimizing the enormous adverse impact of drunk driving.

Resources

Significant increases in fiscal and personnel resources will be required for success, but this is not seen as the sole responsibility of the Federal or State Governments.

J-8 Since DUI has significant economic impact, funds should be used judiciously at all levels of State, local, and Federal Government. In allocating resources to address this issue of traffic safety, funds earmarked for public education should be given the highest priority. Evaluation and reevaluation of current treatment programs that are most cost effective and provide the most efficient treatment are encouraged.

J-9 Coordination and leadership, at the highest levels of government and in the private sector, are also necessary if impaired driving is to be eliminated. Involvement of health, judicial, law enforcement, transportation, and education departments, in an intense and truly cooperative effort, will facilitate the involvement of universities, business, and private groups in developing, implementing, and testing strategies to eliminate this national tragedy.

J-10 The cost of treatment should be borne as much as possible by individuals convicted of DUI, based on their ability to pay. If the individual is unable to pay, the individual's high-risk group (those convicted of DUI) should bear the cost.

Resources for supporting this prevention and rehabilitative endeavor would be derived from revenue from fees, penalties, and other appropriate sources.

Strategy

In view of scientific data indicating the limited effectiveness of short-term, low-intensity educational programs, which are the most common approach to DUI offenders, the Surgeon General should encourage States and local governments to reassess the use of resources currently devoted to such programs and to consider retargeting resources to other treatment or prevention strategies.

Panel K

Citizen Advocacy

Chair: Howard Filston, M.D.
Background Paper: John McCarthy, Ph.D.
Recorder: CAPT Patricia D. Mail
Panel Members: Mickey Sadoff
Rebecca Brown
Ann Esch
Nancy Ricci
Ritchie Aanderud
Marsha Woodward
Harold Brandt, M.D.
Wes Roy
Sue Rusche

Citizen advocacy represents a broad focus of concern that cuts across the more specifically defined issues associated with driving while intoxicated (DWI). Having its roots in the towns and communities of the Nation where the problem of DWI is most omnipresent, the citizen advocate's concerns encompass all aspects of DWI from advertising and marketing through enforcement, judicial and administrative issues, and treatment. But the greatest concentration of effort is in education, for it is through education of the judiciary, legislature, and citizenry that the dramatic efforts to reduce and eliminate DWI are concentrated. Only continued community awareness can bring about the type of behavioral and attitudinal changes necessary to ensure the safety of the Nation's highways from impaired operators of motor vehicles.

The Citizen Advocacy Panel was charged with addressing a range of issues, many of which are being addressed by other panels in the workshop. After wrestling with these charges, it became apparent that continued deliberations would only serve to duplicate the recommendations of the other panels. Each of the charges represented a vital and important issue, and there was insufficient time to address each in the detail required. The panel members are concerned that citizen advocates were not empaneled as members of each of the other panels, for only in that fashion could the citizen advocates voice their unique concerns.

The citizen advocate is able to represent the perspectives and issues that cut across jurisdictional lines; represent victim viewpoints; challenge inaccuracies and inconsistencies in the law, its enforcement, and disposition; and speak out as a conscience for necessary action.

The panel proceeded to address several issues that were of particular and continued concern to advocacy groups. The panel also went on record as supporting and endorsing the recommendations of the *Presidential Commission on Drunk Driving* (1983) and the *Youth Driving Without Impairment Report of the National Commission Against Drunk Driving* (1988). In addition, the panel addressed the special roles and responsibilities of citizen advocates and supported the mandate provided by their inclusion in this workshop that citizen advocacy groups continue to give the issue of DWI the full force of concern in our society which this grave problem deserves.

The panel makes the following recommendations to the Surgeon General.

Recommendations for Advocacy Groups

K-1 Develop a coalition of national and local advocacy groups for the purpose of coordination, exchange of information, and strategic planning.

Strategy

An agency should be identified, such as the National Highway Traffic Safety Administration (NHTSA), under whose sponsorship a meeting of advocacy groups could be convened to initiate coalition building. This conference could occur in conjunction with the next Lifesavers Conference, April 1989.

The NHTSA grant programs should provide funding for regional workshops on drinking and driving to facilitate coalition building on a regional basis. Because of the already established networks of NHTSA, the Surgeon General should encourage the Congress to increase appropriations for NHTSA's grant programs. If coordination with Lifesavers is not feasible, then other sources of support for a coalition-building conference should be sought and a preliminary meeting held during 1989.

K-2 Establish a national clearinghouse of information about impaired driving issues and advocacy activities as a resource for advocates and the general public.

Strategy

The Surgeon General should provide the leadership to coordinate appropriate agencies to identify funding and establish a National Impaired Driving Prevention Information Clearinghouse to help advocacy groups and other interested parties.

- *This should be initiated by the end of fiscal year 1989.*

K-3 Advocacy groups should educate themselves with regard to all aspects and issues of impaired driving to ensure that they have the most accurate and up-to-date knowledge about the problems.

Strategy

The National Impaired Driving Prevention Information Clearinghouse would serve as a major source of information and training materials for advocacy groups and individuals interested in becoming advocates. Advocates who interact with the press or the legislators must know current laws and legislative initiatives for improving them.

K-4 Of all the activities in which advocates are involved, the major efforts should be directed toward four primary activities that are not emphasized by any other group:

- Court monitoring
- Victim assistance
- Influencing public policy and legislation
- Ongoing awareness and public education

Strategy

The National Clearinghouse would be a resource for information to support these activities, provide training material, serve as a repository for model legislation, and provide assistance with the development of appropriate materials. However, nothing will be accomplished without energetic and vigilant efforts by local advocates.

K-5 Advocacy groups should continue to expand their volunteer base, drawing on both victims and potential victims.

K-6 It is important for advocacy groups to keep their volunteers happy and productive. Volunteers require training in order to be well prepared and comfortable with their tasks. A variety of activities should exist that challenge and utilize the broad range of volunteer skills and talents that the individual members bring with their commitment.

Strategy

Advocate participants need to take back to their organizations the recommendations presented at the workshop and to seek ways to both implement and encourage support for the recommendations, giving them wide publicity and assuring the widest possible distribution of the subsequent report.

The Proceedings of the Surgeon General's Workshop on Drunk Driving should be sent to all of the following:

- *State governors*
- *State legislators*
- *State Attorneys General*
- *Members of the U.S. Congress*
- *National advocacy groups*
- *Federal Judges and members of the U.S. Supreme Court*
- *Members of the Presidential Commission on Drunk Driving*
- *Advocacy group officers*
- *Members of the citizen advocacy panel.*

In addition, copies should be made available to the National Clearinghouse for Alcohol and Drug Information for distribution to advocacy group chapters nationally through NCADI's Regional Alcohol and Drug Awareness Resource (RADAR) Network and the National Institute of Justice Clearinghouse.

Copies should also be sent to the national officers and all State presidents of the League of Women Voters.

K-7 Advocacy groups must continually seek a variety of resources within their communities to support their activities, including help from corporations, foundations, individuals, and governmental entities.

K-8 Advocates should seek opportunities to recognize and reward those individuals whose behavior and actions are necessary and appropriate to the task of removing impaired drivers from the streets and streams of America. Appropriate behavior should be reinforced and recognized, whether through the services of volunteers or from administrators, law enforcement officers, judges, probation officers, legislators, or other professionals.

Strategy

When a national clearinghouse is established, one service might be the development and dissemination of a newsletter that would feature volunteers and professionals and recognize their important contributions to getting impaired drivers off the Nation's highways.

K-9 Advocates must be on the alert to identify the unaddressed potential situations in their communities that create a climate for excessive alcohol consumption. Excessive drinking at sporting events or festivals should be discouraged. Those individuals responsible for the planning of public events should be encouraged to seek ways to reduce and control the ready availability of alcohol and to actively discourage DWI while promoting alternatives.

Strategy

This activity is a major responsibility of local advocacy groups. Distribution of the workshop proceedings will help to disseminate this information.

K-10 Advocates must be constantly on the alert for attempts within their community or State to revoke and/or weaken established laws and policies by appending revocation language onto otherwise unrelated bills.

Strategy

A clearinghouse would help make such attempts widely known, and the tactics in one State would be exposed for all to learn from and guard against in their own States.

Additional Recommendations

In addition to recommendations specific to citizen advocates, the panel also wishes to go on record regarding issues that are of great concern to citizen advocates.

K-11 Emphasize that DWI is a national catastrophe (crisis) representing a most serious threat to the public health and deserving of extensive and continuous attention at all levels of government and society.

K-12 State clearly that Driving Under the Influence (DUI) or Driving While Intoxicated (DWI) is a crime and deserving of criminal sanctions, even for the first offense. Use a twofold attack consisting of administrative license revocation per se combined with criminal sanctions. Although some leniency in punishment and emphasis on education toward behavior modification are appropriate for first offenders not involved in crashes resulting in injury or death, the importance of establishing a record of this first offense as a *crime* cannot be overstated, for it then becomes the basis for more punitive sanctions for the multiple offender.

Strategy

This needs to be stated and restated, not only by the Surgeon General, but by the U.S. Attorney General and Federal and State attorneys.

To help publicize the magnitude of this issue and to give prominence to the pervasiveness of DWI in the country, reports of DWI and related criminal activities, such as hit-and-run, should be regularly incorporated in the FBI's Uniform Crime Report.

- *Incorporation of such reporting to be initiated by October 1989.*

K-13 Increase national attention on DWI and the events leading up to this act. To accomplish this, use of properly descriptive language must be strongly encouraged. This includes the fact that alcohol-related crashes and injuries are not "accidents."

Strategy

The Surgeon General should encourage all major medical organizations and the Centers for Disease Control to define alcohol-related episodes as crashes, with resultant injuries where appropriate, and to cease using the word "accident." The CDC should commence regularly reporting alcohol-related crash injuries and deaths. These deaths and injuries due to DWI should be regularly tracked and reported in the Center for Disease Control's Morbidity and Mortality Weekly Report. The latter will help to raise health professional awareness about the magnitude of the problem.

- *This should be initiated by October 1, 1989.*

K-14 Increase the use of sobriety checkpoints on the Nation's roads and highways and reinstate them in those States that have declared them unconstitutional.

Strategy

The U.S. Attorney General should promulgate the model standards for setting up such checkpoints. A summary of the issues relating to this recommendation may be found in the Impaired Driving Issues Compendium (1989), *prepared by Mothers Against Drunk Driving:*

> *The National Association of Chiefs of Police, other law enforcement associations, the Justice Department, and NHTSA should all strongly urge the use of checkpoints. NHTSA should encourage State Attorneys General to review their local laws and make changes as needed to implement checkpoints, as well as to provide guidelines to their members and the various states on the legal implementation of such checkpoints.*
>
> *Advocates need to inform themselves about this issue and determine what their local and State policies are regarding checkpoints. With volunteer legal consultation, conduct a review of local laws to determine where modification may be needed to implement or reinstitute checkpoints.*

- *All of the above with preliminary implementation by December 31, 1990.*

K-15 Significantly lower the per se BAC of 0.10 and apply this lowered standard to the general public consistently throughout the United States. Standards should be consistent with either the recommendations of the American Medical Association (.05) or those currently being applied to commercial transportation operators (.04). The permissible BAC for drivers under the age of 21 should be established at 0.00 nationally.

Strategy

The U.S. Public Health Service should charge its appropriate Agencies to begin a review of all relevant research immediately to determine appropriate BAC levels to safely operate motor vehicles, and issue a report on their findings not later than December 30, 1990.

When this determination is made, the information should be forwarded to NHTSA and the Departments of Justice, Education, and Defense for the widest possible promulgation. In addition, the PHS should forward a recommendation to the appropriate

Congressional Committees to consider development of legislation to establish this level nationally.

Advocacy groups should urge the adoption of the level on a State-by-State basis.

If all legislative avenues to establish a physiologically relevant standard fail, then the Congress should consider withholding Federal highway trust funds from States, as part of a total package of mandating model standards for the public health and safety.

- *Effective legislation and enforcement could be in place by 1992. The PHS can probably conduct a review of research and make a recommendation by the end of FY 1990.*

K-16 Adopt uniform graduated penalties for DWI in the States and territories, with special focus on multiple offenders, especially those individuals driving with revoked licenses.

Strategy

The Surgeon General should ask NHTSA to work with advocacy groups, law enforcement officials, and appropriate judiciary organizations to develop such models and supportive educational material.

The resources of NHTSA should be directed to convening an expert working group to establish standard graduated sanctions, with particular emphasis on multiple offenses, driving under license revocation, and penalties for those who knowingly lend a vehicle to an individual who has a revoked license.

K-17 Establish a national computer registry of DWI offenders in which the recognition of DWI in any State has reciprocity and recognition in all other States. This should be available to licensing bureaus and all enforcement officers through a network like the Federal Bureau of Investigation's National Crime Information Center (NCIC).

Strategy

The Congress is urged to appropriate funds to implement the 1988 Drunk Driving Prevention Act, and advocacy groups nationally should also urge passage of the provisions of this law in their individual States.

In addition, the Surgeon General should request participation of the

Justice Department and other appropriate law enforcement agencies and institutions to review and recommend the most expedient manner for creation of this data base.

- *Review and recommendations regarding feasibility and cost could be completed by the end of FY 1990 and the Registry be implemented by the end of FY 1992.*

K-18 All States should incorporate into their driver qualification tests questions on the effects of drinking and driving and the penalties for violations.

Strategy

Advocacy groups should urge incorporation through their legislators and licensing bodies.

- *To begin immediately.*

K-19 Testing for BAC should be mandatory as evidence in any crash, injury, or death in which a motorized vehicle is involved (including boats, snowmobiles, and other all-terrain and off-road vehicles).

Strategy

The U.S. Attorney General should restate the requirements of the Uniform Vehicle Code as they pertain to mandatory testing, and testing should be applied in all traffic crashes resulting in fatalities or bodily injury.

- *This emphasis needs to be promulgated immediately and consistently, certainly as soon as possible after the new Attorney General takes office January 20, 1989.*

K-20 Require all medical personnel in trauma centers and emergency rooms to conduct BAC testing and report suspected DWI offenders to the proper authorities. These laws would be similar to the child abuse laws in which clinicians are protected against prosecution for compliance, but compliance is mandatory.

Strategy

The U.S. Attorney General should recommend legislation to provide protection from prosecution of medical personnel and request that this requirement be inserted into appropriate legislation.

Advocates should work with their local medical societies, State medical associations, and the Attorney General to draft legislation to implement and enforce this reporting.

- *Mandatory reporting to be passed by at least five States by December 1992.*

K-21 Establish programs of victim assistance for the injured as well as the dead. These programs should provide help not only with court proceedings, but with compensation and treatment, both physical and psychological.

Strategy

Advocacy groups, working with the Department of Justice and NHTSA, should establish a Victims Bill of Rights, to be incorporated into newly drafted highway safety legislation that is designed to fill the gaps in the current drunk driving legislation.

The Department of Justice should promote the Victims Bill of Rights, including the admissibility of Victim Impact Statements for adoption into law.

- *By December 1, 1990.*

A model law needs to be developed to address the issue of nonfatal injuries incurred in an alcohol-related crash. This must include restitution/compensation for any degree of injury that occurs. This model law needs to be incorporated as a statute in new legislation. Such legislation should be developed during a consensus conference sponsored by NHTSA.

- *By December 31, 1991.*

K-22 The Department of Justice and other interested parties should file amicus briefs before the next session (and, if necessary, in any future sessions) of the Supreme Court (e.g., *South Carolina* vs. *Gathers* 88-305 or others) in an effort to reverse the high court's decision on *Booth* vs. *Maryland* (107 S.Ct, 2529 [1987]) regarding the admissibility of Victim Impact Statements.

Strategy

The U.S. Attorney General should submit an amicus brief to the court in support of the admissibility of Victim Impact Statements.

- *By April 1, 1989.*

K-23 Focus increased attention on the issue of alcoholic or codependent denial and its insidious influence on those who are charged with the public responsibility of addressing and dealing effectively with impaired driver issues at all levels. This includes impaired or addicted individuals in education, the criminal justice system, the medical care system, and private citizens whose own illness may negatively impact their ability to behave in an appropriate and lawful manner.

Strategy

The U.S. Public Health Service, through appropriate agencies, should facilitate increased awareness of addiction and the attributes of an impaired individual, with strong encouragement for the increased availability of employee assistance programs and other detection and treatment measures. This education should be conducted cooperatively with NHTSA and the Departments of Defense and Education.

- *Preliminary information on denial and codependency should be provided to professional preparation institutions, both law and medicine, by December 31, 1989.*
- *Supervisors in all major Federal Agencies should receive information on impairment and the availability of employee assistance programs in their Agencies by October 1, 1990.*

The PHS, through the educational resources of the CDC, should develop counteradvertising messages for youth to illustrate the negative consequences of alcohol abuse and to foster a climate of nonalcoholic sociability.

- *Public service announcements should be pilot tested and available by June 30, 1990.*

The panel reiterates that the most important single element in addressing all the issues of drunk driving is *education*. Continual community awareness about the severity and seriousness of DWI must be the responsibility of all individuals who wish to protect themselves, their property, and their lives from serious injury or death.

The members of the Citizen Advocacy Panel wish to thank Surgeon General C. Everett Koop for his concern and his willingness to put the full weight of his office and the attention of the U.S. Public Health Service on the issue of drunk driving.

NOTE: The Citizen Advocacy Panel recommends to all concerned readers the MADD *Impaired Drivers Issues Compendium*, which provides detailed information about many of the issues discussed at the workshop.

Closing Remarks

C. Everett Koop, M.D., Sc.D.
Surgeon General of the U.S. Public Health Service
U.S. Department of Health and Human Services

I'm certain there are no reasonable people who believe that drunk driving should be tolerated. Yet people shy away from any discussion deeper than "isn't it terrible." Leadership is hard to come by, because it is a lonely position. Although this workshop had the enthusiastic representation of five cabinet departments in planning, only one cabinet secretary – Dr. Otis Bowen – appeared at this meeting.

It is never an easy assignment to respond to workshop recommendations because the time is short, the number of recommendations great, and the Surgeon General has neither budget nor power, save the power of moral suasion.

It has been my custom to keep the participants and other interested individuals and organizations apprised of initiatives undertaken and other activities 6 months and 1 year after publication of the booklet. On selected subjects in former workshops, annual progress reports have also been provided to participants.

I am pleased that Jeffrey Miller and Loran Archer have been able to respond to your deliberations and, believe me, I am grateful to them. They have indicated a willingness to work with us, and you have heard what a resource they are for you.

I find myself in the cleanup position, and since the other respondents and I have already conferred, I will try not to be repetitious. Since the subjects of many of the panels are crosscutting, generic remarks covering all panels seem appropriate. Obviously, I will properly refer recommendations with a narrow focus to appropriate agencies. And when recommendations are sent, *all* will be sent because of the overlaps and crosscutting of some issues and panels.

The advertising and marketing recommendations remind me of the first, and at times faltering, steps taken 25 years ago in reference to tobacco advertising. I'm not being critical; that's a compliment.

In reference to the research recommendations, you have already heard from Mr. Archer. I will discuss them with Mr. Archer and Dr. Gordis of NIAAA, and with Dr. Fred Goodwin, Administrator of ADAMHA, as well as getting them exposure in appropriate media catering to the academic community.

I will present the epidemiology panel's recommendations to Dr. James Mason, Director of the Centers for Disease Control (CDC), for a critique for feasibility on the part of the Federal Government and request that he report on current and future plans of the CDC that may address specific recommendations. I will also ask for the cooperation of the CDC in wide dissemination of the panel's findings.

Education is probably where I can be most effective, and I pledge myself to this effort both now as your Surgeon General and later when I leave this office for the private sector.

I will seek appropriate counsel regarding the broad dissemination of the judicial and administrative enforcement recommendations to those agencies most likely to have responsibility and/or the ability to act.

I will undertake to deliver to organized medicine by appropriate means – personal and by transmittal – concerns and recommendations of the injury control and treatment panels. I will be contacting these organizations early on:

- American Medical Association -- especially the student sector
- National Medical Association – for some of the ethnic considerations
- American Academy of Pediatrics
- American College of Surgeons
- American College of Preventive Medicine
- American Academy of Family Physicians
- American Trauma Society and others that will come to mind or be suggested by you.

Appropriate contact will also be made with the following groups to expedite the recommendations on youth and other special populations.

- National PTA
- National School Board Association
- The various associations of school principals
- The National Education Association.

My work with these groups over the past few years regarding AIDS gives me easy access and ready credibility.

But also: Boy Scouts, Girl Scouts, Camp Fire Girls, 4-H Clubs, and others.

I note the crosscutting nature of the concerns of the citizen advocacy panel. I will convene a group (and welcome suggestions from the panel) to consider the formation of a nonprofit corporation of the 501(c)3 type to act as an umbrella for a coalition to be supported by dues – to set its own agenda. I will provide funds to pay legal fees and other expenses to get this off the ground.

I will seek to put this new organization in touch with possible ongoing sources of funding. Believe me, this is an effective and productive tool, judging from our post-workshop experiences with organ procurement for transplants, child abuse, resource location for handicapped children, self-help, and so on. I will see that these recommendations reach the widest possible audience, because we *all* must be advocates.

And now for some comments that apply to all panels – I will:

- Use my relationship with organized medicine to give the final product of this workshop the broadest applications.
- See that a copy of the final document goes to each Senator and each Congressman with an appropriate covering letter from me.
- Do the same for the chiefs of staff of the various congressional committees that could have a legislative interest in these recommendations.
- Present these findings in detail and with additional comments to the Association of State and Territorial Health Officers at their annual meeting in the spring.
- Seek an appropriate opportunity to address municipal and county health officers in the same manner.
- Personally sit down with the new Secretary of the Department of Health and Human Services soon and with the new Surgeon General eventually and solicit their personal involvement because of the gravity of the situation and the need for action, and
- Wherever possible, I will lay the burden on government agencies, private agencies, and academia and seek cooperation at every level.

When the new administration is underway, I will see that the governors of each State and territory receive the complete set of documents with a covering letter from me.

Now for a final word. Strange as it may seem, there are a few people and organizations who would have preferred that we *not* meet on this subject this week – or maybe ever.

I guess by now everyone knows of my correspondence with Mr. Edward O. Fritts, President of the National Association of Broadcasters (NAB) inasmuch as the press had his letter to me when I received my copy. His is a key organization, I won't deny that. I wanted him and the NAB to be here with us. I wanted everyone to hear the NAB's point of view not only because broadcasters are very influential – as we all know – but because they also have so much at stake in this issue. Hence, they certainly have a right to be here.

That's why I invited Mr. Edward Fritts. And that's why I also invited Mr. John O'Toole, the Executive Vice-President of the American Association of Advertising Agencies (the "4-A's"), and Mr. Dewitt Helm, the President of the Association of National Advertisers, the people who are the *clients* of the 4-A's.

But all three declined. Mr. O'Toole and Mr. Helm suggested that our workshop lacked "good balance." They also said they had very little time to prepare for the discussion that would no doubt take place here. And each person suggested I cancel the workshop.

I was sorry to get their replies. But, if I may say so, I think their complaints and suggestions are quite unfair. Now, it is true that one message that might be heard at this workshop is this one: *alcohol contributes to injury and premature death.*

That's a troubling message, to be sure, and one's instincts might well be, figuratively speaking, to "kill the messenger" – in this case, discredit this workshop or have it cancelled. If so, then Mr. O'Toole's and Mr. Helm's strategy didn't work.

However, the letter to me from Mr. Fritts of the NAB was a bit more unsettling because it contained this observation:

> At best, this workshop is designed to politicize the emotional tragedy of drunk driving. At worst, it is a total abuse of the policy-setting process.

In addition to being surprised at that *unfortunate* choice of words, I was taken aback by that observation, since over the past 7 years I have personally convened and conducted a dozen workshops, several at the request of President Reagan, dealing with such difficult issues as –

- Organ transplantation;
- Domestic violence;
- The needs of handicapped children and their families; and

- The role of the self-help movement in public health.

And I've conducted workshops on child pornography and public health and on the care of children who are born with AIDS, and so on. *None* of these workshops was called to "politicize an emotional tragedy," and *all* these workshops contributed significantly to the policymaking process of this administration. As will *this* one, I am sure.

I don't wish to dwell on the NAB's criticism because it may be nothing more than an early and predictable phase in the industry's learning process.

That's been the immediate response from the broadcasting and the advertising industries. We obviously must wait for them to offer something more helpful. But what are the chances that will happen? If history is any guide, the chances might be slim.

I hope that's not the case, because the history of smoking and health is not encouraging. I've reviewed the way the tobacco, broadcasting, and advertising industries behaved around the time my predecessor, the late Dr. Luther Terry, released the first *Smoking and Health Report* 25 years ago. From that review I can see that, even at this early stage of discussion, there are already similarities of behavior.

And that's a shame. I think we'd all prefer that these industries – and their chosen leaders – would heed the oft-quoted wisdom of George Santayana, who wrote

> Those who cannot remember the past are condemned to repeat it.

I can tell you that I, for one, would rather *not* repeat the difficult times we had in the past. I do not think the confrontations were always necessary or fruitful.

But some aspects of the past *are* worth noting and worth emulating. For example, 25 years ago the public health community, with the support of many citizens' groups and a substantial number of members of Congress, embarked upon a systematic program of research into the relationship between smoking and health.

At the same time, and in a responsible way, we also began to look at the public policy implications of the research results, as they came to light. From that information we were able to plan ways to help the American people cast off this high-risk health behavior: smoking. And that meant principally a long-range and unremitting program of public education and instruction. That's what happened regarding the issue of smoking and health. And certainly drinking and driving is high-risk behavior amenable to education and instruction.

I respectfully suggest that Mr. Fritts, Mr. O'Toole, and Mr. Helm – and their colleagues – review that history as I did, because the American people may now be – in terms of alcohol – where we were 25 years ago in terms of tobacco.

The relationship of the National Commission Against Drunk Driving and this workshop provides a puzzle not easy to solve. That we – the Commission and this workshop – have the same presumed goal should be obvious. That we should stand together makes sense.

Yet Mr. Adduci, Chairman of the Commission, cleverly suggested to me in a letter of November 28, 1988, that "you may be considering the following along with other options." One option was to "disregard the views and position of the National Association of Broadcasters." Another was to postpone this meeting, and a third was to "notify all panelists that (my) office had overlooked or was unaware of the fact that DOT had given the National Commission a $100,000 grant to do a 16-month assessment of its initiatives."

After further correspondence with me and conversations with my staff, it was agreed that Mr. Adduci and I would let no light be seen between us as we stood side by side in this effort to reduce the carnage on our highways and streets. And that either Mr. Aducci or his program director, Dr. Grant, would speak at the opening plenary session.

This seemed very appropriate in view of the published report of the commission on "youth driving without impairment," excerpts of which both Dr. Bowen and I read the day before yesterday at the plenary and commented upon favorably.

Yet when the confirmatory letter was faxed to me on the 13th – the day before this workshop opened – there was a quid pro quo. In return for that speech, we would not release conclusions or recommendations of two of our panels until the commission had completed its assessment project – a minimum of 16 months from whenever they start.

I thought that would be unacceptable to you and, therefore, the Commission refused to speak at the opening plenary session. I thought the proposed delay – 16 months – was particularly inappropriate in view of the fact that the National Beer Wholesalers Association and the National Association of Broadcasters, with participating legal counsel, in the most intense discussions Wednesday, Thursday, and today, requested only a 45-day comment period followed by a 30-day delay before final publication.

As for me, I intend to ignore those who would lynch or execute a first offender in drunk driving, just as I would ignore those who say that it has not yet been proven that alcohol is responsible for impaired driving. I intend to assume what leadership role I may between these two extremes and, as I have with other issues, transmit what energy, enthusiasm, and credibility I have to this war against impaired driving.

I will think of lots more and keep you posted.

Thanks to Amy Barkin, Steve Moore, and many others who have brought us this far with the workshop and thank you, Susan Lockhart, for all you will do with me as we face this problem in the new year.

And thank all of you for coming. Have a blessed holiday season and all that's good in the new year.

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